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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR**  
**PEMBERTON**

Cross References:

- (1) Special Warranty Deed dated January 6, 2011 and recorded January 12, 2011 as Instrument Number 201100000483 in the Office of the Recorder of Boone County, Indiana (Source Deed for Phase II Property owned by H&S, LLC)
- (2) Special Warranty Deed dated July 25, 2016 and recorded July 27, 2016 as Instrument Number 201600007043 in the Office of the Recorder of Boone County, Indiana; as corrected by Scrivener's Error Affidavit dated September 28, 2016, and recorded on October 3, 2016 as Instrument Number 201600009775 in the Office of the Recorder of Boone County, Indiana.
- (3) Declaration of Covenants dated July 20, 2015, and recorded July 28, 2015, as Instrument No. 201500007023 in the Office of the Recorder of Boone County, Indiana.
- (4) Commitments Concerning the Use or Development of Real Estate Made in Connection with a Development Plan Approval, Zone Map Change or Planned Unit Development Required by the Town of Zionsville Zoning Ordinance executed July 24, 2015, and recorded July 28, 2015, as Instrument No. 201500007024 in the Office of the Recorder of Boone County, Indiana.
- (5) Amenities Sharing Easement and Covenant to Share Costs, recorded simultaneously with this Declaration of Covenants, Conditions and Restrictions in the Office of the Recorder of Boone County, Indiana.

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**EXHIBITS**

- A Land Submitted
- B By-Laws
- C Initial Rules
- D Intentionally Omitted
- E Hampshire Legal Description and Depiction
- F Architectural Guidelines

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PEMBERTON is made this 5<sup>th</sup> day of June, 2017, by ZIONSVILLE DEVELOPMENT, LLC, an Indiana limited liability company (“**Declarant**”).

**ARTICLE 1**  
**CREATION OF THE COMMUNITY**

**Section 1.1 Purpose and Intent.** This Declaration of Covenants, Conditions and Restrictions for Pemberton (“**Declaration**”) establishes a governance structure and a flexible system of standards and procedures for the development, expansion, administration, maintenance and preservation of Pemberton as a planned community. An integral part of the development plan is the formation of the Pemberton Homeowners Association, Inc., an Indiana nonprofit corporation, to own, operate and/or maintain various common areas and community improvements and to administer and enforce this Declaration and the Governing Documents (as defined in **Article 2** below).

This Declaration is not intended to create, nor shall it be construed or deemed to create, a condominium pursuant to Indiana law (Ind. Code § 32-25-1 et seq.).

**Section 1.2 Binding Effect.** Declarant hereby declares that all of the property described in **Exhibit A** and any additional property subjected to this Declaration by Supplemental Declaration (as defined in **Article 2** below) shall be held, sold, used and conveyed subject to the following easements, restrictions, covenants, and conditions, which shall run with the title to the real property subjected to this Declaration. This Declaration shall be binding upon all parties having any right, title, or interest in any portion of the Community (as defined in **Article 2** below), their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner of any portion of the Community. H & S (as defined in **Article 2** below), as the fee owner of the Phase II Property (as defined in **Article 2** below), hereby joins into and consents to all of the terms and provisions of this Declaration, including specifically the appointment of Zionsville Development, LLC as the Declarant and Class “B” Member under this Declaration and the submission of the Phase II Property to this Declaration, and executes this Declaration solely for the purpose of evidencing such joinder and consent.

All provisions of the Governing Documents shall apply to all owners and to all occupants of their dwellings, as well as their respective tenants, guests and invitees. Any lease on a dwelling shall provide that the lessee and all occupants of the leased dwelling shall be bound by the terms of the Governing Documents.

**ARTICLE 2**  
**DEFINITIONS.**

Unless otherwise specified, the capitalized terms in this Declaration and the attached exhibits shall be defined as follows:

**“Amenities Sharing Easement”**: The Amenities Sharing Easement and Covenant to Share Costs by and between Declarant, Association, Hampshire Declarant and Hampshire Association (and consented to by H&S), as amended, Recorded simultaneously with this Declaration, whereby the owners of the lots in Pemberton are (i) granted the perpetual right and nonexclusive easement to utilize, access, and enjoy the Recreational Facilities; (ii) granted the right to participate in certain decisions regarding the Recreational Facilities; and (iii) obligated to contribute their proportionate share of expenses for the use of the Recreational Facilities with such revenues being applied to the cost of the maintenance of the Recreational Facilities pursuant to the terms and conditions therein.

**“Architectural Guidelines”**: The architectural guidelines set forth in **Exhibit F** applicable to the Community pursuant to the Commitments.

**“Area of Common Responsibility”**: The Common Area, together with such other areas, if any, for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration or other applicable covenants, contract, or agreement.

**“Articles of Incorporation” or “Articles”**: The Articles of Incorporation for Pemberton Homeowners Association, Inc., as filed with the Secretary of State for the State of Indiana.

**“Association”**: Pemberton Homeowners Association, Inc., an Indiana nonprofit corporation, its successors or assigns.

**“Base Assessment”**: Assessments levied on all Units subject to assessment under **Article 8** to fund Common Expenses for the general benefit of all Units, as determined in accordance with **Section 8.1**.

**“Board of Directors” or “Board”**: The body responsible for administration of the Association, selected as provided in the By-Laws and generally serving the same role as the board of directors under Indiana corporate law.

**“Builder”**: Any Person which purchases one or more Units for the purpose of constructing improvements for later sale to consumers in the ordinary course of such Person's business.

**“By-Laws”**: The Code of By-Laws of Pemberton Homeowners Association, Inc., attached as **Exhibit B**, as they may be amended.

**“Commitments”**: The Commitments Concerning the Use or Development of Real Estate Made in Connection With a Development Plan Approval, Zone Map Change or Planned Unit Development Required by the Town of Zionsville Zoning Ordinance executed by H & S on July 24, 2015, and Recorded on July 28, 2015, as Instrument No. 201500007024.

**“Common Area”**: All real and personal property, including easements which the Association owns, leases or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners; including, without limitation, any common areas or blocks identified on any Plat, the Recreational Facilities, entrance monuments, and any improvements and/or structures required to be constructed pursuant to the Commitments, if applicable.

**“Common Expenses”**: The actual and estimated expenses incurred, or anticipated to be incurred, by the Association, including any reasonable reserve, as the Board may find necessary and appropriate pursuant to this Declaration, the By-Laws, and the Articles. Common Expenses shall not include any expenses incurred during the Declarant Control Period for initial development, original construction, installation of infrastructure, original capital improvements, or other original construction costs unless approved by Members representing a majority of the total Class “A” vote of the Association. Common Expenses shall also include the obligations under any stormwater easement or management agreement Recorded at any time as to any portion of the Community.

**“Community” or “Pemberton”**: The property described in **Exhibit A** and any additional property made subject to this Declaration in the future by amendment or Supplemental Declaration in accordance with **Article 9**.

**“Community-Wide Standard”**: The standard of conduct, maintenance, or other activity generally prevailing throughout the Community. Such standard may be more specifically determined by the Board, the NCC (as defined in **Section 4.2(a)** herein), and/or the CMRB (as defined in **Section 4.2(b)** herein).

**“Declarant”**: Zionsville Development, LLC, an Indiana limited liability company, or any successor, successor-in-title, or assign who takes title to any portion of the property described on **Exhibit A** for the purpose of development and/or sale and who is designated as the Declarant in a Recorded instrument executed by the immediately preceding Declarant; provided, there shall be only one Declarant at any time.

**“Declarant Control Period”**: The period of time during which the Declarant is entitled to appoint the members of the Board of Directors as provided in the By-Laws.

**“Design Guidelines”**: The design and construction guidelines and application and review procedures applicable to the Community promulgated and administered pursuant to **Article 4**.

**“Exclusive Common Area”**: Any portion of the Common Area primarily benefiting one or more Units as more particularly described in **Article 12**, if applicable.

**“Existing Declaration”**: That certain Declaration of Covenants dated July 20, 2015, and Recorded July 28, 2015 as Instrument No. 201500007023.

**“Governing Documents”**: A collective term referring to this Declaration, any Supplemental Declarations, the Existing Declaration, the PUD/Zoning Ordinance, the Amenities Sharing Easement, the By-Laws, the Articles, the Design Guidelines, the Rules and any applicable permits, licenses or approvals issued by any governmental agency for the Community, as they may be amended.

**“Hampshire”**: The approximate 258 lot adjacent single family community described and depicted on **Exhibit E**, as may be expanded to include the Goodwin Property, as described in the Declaration of Covenants, Conditions and Restrictions for Hampshire, as amended.

**“Hampshire Association”**: Hampshire Homeowners Association, Inc., an Indiana nonprofit corporation, its successors or assigns.

**“Hampshire Declarant”**: Beazer Homes Indiana, LLP, an Indiana limited liability partnership, as the collective owners of Hampshire, or any successor in interest to or declarant of Hampshire.

**“H & S”**: H & S, LLC, an Indiana limited liability company.

**“Local Authority”**: Boone County, Indiana or the Town of Zionsville, Indiana, as applicable.

**“Master Plan”**: The land use plan for the development of the Community, as it may be amended from time to time, which plan includes the property described on **Exhibit A**. Inclusion of property on the Master Plan shall not, under any circumstances, obligate Declarant to subject such property to this Declaration, nor shall the exclusion of property from the Master Plan bar its later annexation in accordance with **Article 9**.

**“Member”**: A Person subject to membership in the Association pursuant to **Section 6.2**.

**“Mortgage”**: A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Unit.

**“Mortgagee”**: A beneficiary or holder of a Mortgage.

**“Mortgagor”**: Any Person who gives a Mortgage.

**“Owner”**: One or more Persons who hold the record title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a recorded contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner.

**“Person”**: A natural person, a corporation, a partnership, a trustee, or any other legal entity.

**“Phase II Property”**: The portion of the property described in Exhibit A which is entitled “Phase II Property”.

**“Plat”**: Any existing or future recorded subdivision plat of the Community.

**“PUD/Zoning Ordinance”**: Any existing or future zoning ordinance affecting the Community; including, without limitation, the Commitments.

**“Record,” “Recording,” or “Recorded”**: To file, filing, or filed of record in the Office of the Recorder, Boone County, Indiana, or such other place which is designated as the official location for recording deeds and similar documents affecting title to real estate. The date of Recording shall refer to that time at which a document, map, or plat is Recorded.

**“Recreational Facilities”**: The clubhouse, walking trails, playgrounds, tennis and basketball courts and swimming pool constructed in Hampshire by the Hampshire Declarant and which are intended for use by all Units and the owners of all Hampshire units pursuant to the Amenities Sharing Easement.

**“Rules”**: Those use restrictions and rules affecting the Community, which may be adopted, modified and repealed as set forth in **Article 3**. The initial Rules are set forth on Exhibit C.

**“Special Assessment”**: Assessments levied in accordance with **Section 8.4**.

**“Specific Assessment”**: Assessments levied in accordance with **Section 8.5**.

**“Supplemental Declaration”**: An instrument Recorded pursuant to **Article 9** which subjects additional property to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on the land described in such instrument. For purposes of **Section 9.1** a Plat signed by Declarant which subjects the additional property to this Declaration shall also constitute a Supplemental Declaration.

**“Unit”**: A portion of the Community, whether improved or unimproved, depicted as a separately identified lot or parcel on a Plat, which may be independently owned and conveyed and is zoned or otherwise intended for development, use, and occupancy as a residence for a single family. The term “Unit” refers to the land, if any, which is part of the Unit, as well as to any structures or other improvements on the Unit. In the case of a building within a condominium or other structure containing multiple dwellings for independent ownership, each dwelling shall be deemed to be a separate Unit. Vacant land or unplatted land on which improvements are under construction shall be deemed to be a

single Unit until a Plat or condominium instrument is Recorded subdividing the land into more than one Unit.

**ARTICLE 3**  
**USE AND CONDUCT**

**Section 3.1 Restrictions on Use, Occupancy, and Alienation.** The restrictions set forth in this Section 3.1 may be amended only in accordance with Section 18.2.

(a) **General.** Units shall be used only for residential, recreational, and related purposes consistent with the Governing Documents. The provisions of this Article 3 shall not apply to any activity conducted by Declarant or a Builder approved by Declarant with respect to its development and sale of the Community or its use of any Units which it owns within the Community.

(b) **No Business Use.** No business, trade, or similar activity shall be conducted within the Community except that an Owner or occupant residing in a Unit may conduct business activities within the Unit so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Unit; (ii) the business activity conforms to all zoning requirements for the Community; (iii) the business activity does not involve regular visitation of the Unit by clients, customers, suppliers, or other business invitees or door-to-door solicitation of residents of the Community; and (iv) the business activity is consistent with the residential character of the Community and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Community, as may be determined in the Board's sole discretion.

The terms “business” and “trade,” as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required. Leasing a Unit shall not be considered a business or trade within the meaning of this subsection.

(c) **Leasing of Units.** “Leasing,” for purposes of the Governing Documents, is defined as regular, exclusive occupancy of a Unit by any Person, other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. Units may be leased only in their entirety and for no more occupants than permitted by the Rules or by applicable law, rule, or regulation. No fraction or portion of a Unit may be leased. All leases shall be in writing. An Owner leasing his or her Unit shall provide notice of any lease, together with a copy of the lease and such other additional information as the Board may require, to the Board, or to such Person designated by the Board to receive such notice and information, no later than ten (10) days after the execution of the lease. The Owner must make available to the lessee copies of the Governing Documents.

(d) **Subdivision of a Unit and Time-Sharing.** No Unit shall be subdivided or its boundary lines changed; provided, Declarant, its successors and assigns, and H&S and Builders, with Declarant's advance approval, may subdivide, re-subdivide, change the boundary lines of, and replat Units and the Common Area in a manner consistent with the Community scheme of development, for so long as Declarant, H&S, or any Builder owns any portion of the Community. No Unit shall be made subject to any type of timesharing, fraction-sharing, interval ownership or

similar program whereby the right to exclusive use of the Unit rotates among members of the program on a fixed or floating time schedule over a period of years.

(e) **Occupants Bound.** All provisions of the Governing Documents shall apply to all occupants, guests, and invitees of any Unit. Every Owner shall cause all occupants, guests, and invitees of his or her Unit, including tenants to whom the Owner is Leasing its Unit, to comply with the Governing Documents and shall be responsible for all violations and losses to the Area of Common Responsibility caused by such Persons, notwithstanding the fact that such Persons also are fully liable and may be sanctioned for any violation.

**Section 3.2 Framework for Regulation.** The Community has been established and is administered pursuant to the Governing Documents that have a legal and binding effect on all owners and occupants of property in the Community, as well as on anyone else that may now or in the future have an interest in any portion of the property comprising the Community. All owners and occupants, as well as their tenants, guests, and invitees, are required to comply with the Governing Documents.

**Section 3.3 Rule Making Authority.** The initial Rules applicable to the Community are attached as **Exhibit C** to this Declaration. Subject to the terms of this **Article 3**, the Rules may be modified in whole or in part, repealed or expanded as follows:

(a) Subject to the Board's duty to exercise business judgment and reasonableness on behalf of the Association and its Members, the Board may adopt rules which modify, cancel, limit, create exceptions to, or expand the Rules set forth on **Exhibit C**. The Board shall send notice by mail to all Owners concerning any such proposed action at least five (5) business days prior to the Board meeting at which such action is to be considered. Members shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken.

(b) Alternatively, the Members, at a meeting duly called for such purpose as provided in the By-Laws, may adopt rules which modify, cancel, limit, create exceptions to, or expand the Rules by a vote of Members representing at least 51% of the total Class "A" votes in the Association and the approval of the Class "B" Member, if any.

(c) A rules change adopted under this **Section 3.3** shall take effect thirty (30) days after the date on which written notice of the rules change is given to the Owners.

(d) Nothing in this **Article 3** shall authorize the Board or the Members to modify, repeal or expand the Design Guidelines or other provisions of this Declaration. In the event of any inconsistency between the Design Guidelines and the Rules, the Design Guidelines shall control. between the provisions of the Declaration and the Rules, the provisions of the Declaration shall control.

(e) The procedures required under this **Section 3.3** shall not apply to the enactment and enforcement of administrative rules and regulations governing use of the Common Area unless the Board chooses in its discretion to submit to such procedures. Examples of such administrative rules and regulations shall include, but not be limited to, hours of operation of a recreational facility, speed limits on private roads, and the method of allocating or reserving use of a facility (if permitted) by particular individuals at particular times. The Board shall exercise business judgment in the enactment, amendment, and enforcement of such administrative rules and regulations.

**Section 3.4 Owners' Acknowledgment and Notice to Purchasers.** All Owners and occupants of Units are given notice that use of their Units is limited by the Rules as they may be amended, expanded and otherwise modified hereunder. Each Owner, by acceptance of a deed or entering into and recording a contract of sale, acknowledges and agrees that the use and enjoyment and marketability of his or her Unit may be affected and that the Rules may change from time to time. A copy of the current Rules and all administrative policies are available from the Association upon request. The Association may charge a reasonable fee to cover its reproduction cost.

**Section 3.5 Protection of Owners and Others.** Except as may be specifically set forth in this Declaration (either initially or by amendment) or in **Exhibit C**, neither the Board nor the Members may adopt any rule in violation of the following provisions:

(a) **Similar Treatment.** Similarly situated Owners and occupants shall be treated similarly.

(b) **Displays.** No rule shall abridge an Owner's right to display political, religious, or holiday symbols and decorations on his or her Unit of the kinds normally displayed in single-family residential neighborhoods, nor shall any rule regulate the content of political signs. However, the Association may adopt time, place, and manner restrictions with respect to signs, symbols, and displays visible from outside structures on the Unit, including reasonable limitations on size and number. Owners may display one "For Sale" or "For Rent" sign on their Units provided such signs are a similar size and quality as those used by local real estate brokers and agents which shall in no event exceed six square feet of surface area.

(c) **Household Composition.** No Rule shall interfere with an Owner's freedom to determine household composition, except that the Association may impose and enforce reasonable occupancy limitations and conditions based on Unit size and facilities and its fair share use of the Common Area.

(d) **Activities Within Dwellings.** No rule shall interfere with the activities carried on within the confines of dwellings, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Units, that generate excessive noise or traffic, that create unsightly conditions visible outside the dwelling, that create an unreasonable source of annoyance, or that violate applicable laws, rules, or regulations.

(e) **Allocation of Burdens and Benefits.** No rule shall alter the allocation of financial burdens among the various Units or rights to use the Common Area to the detriment of any Owner over that Owner's objection expressed in writing to the Association. Nothing in this provision shall prevent the Association from changing the Common Areas available, from adopting generally applicable rules for use of Common Area, or from denying use privileges to those who abuse the Common Area or violate the Governing Documents. This provision does not affect the right to increase the amount of assessments as provided in **Article 8**.

(f) **Alienation.** No rule shall prohibit leasing or transfer of any Unit, or require consent of the Association or Board for leasing or transfer of any Unit; provided, the Association or the Board may require minimum and maximum lease terms. Unless otherwise determined by the Board, the minimum lease term for a Unit shall not be less than one (1) year. The Association may require that Owners use lease forms approved by the Association, but shall not impose any

fee on the lease or transfer of any Unit greater than an amount reasonably based on the costs to the Association of administering that lease or transfer.

(g) Abridging Existing Rights. No rule shall require that an Owner dispose of personal property kept in or on a Unit in compliance with the Rules in effect at the time such personal property was brought onto the Unit. This exemption shall apply only during the period of such Owner's ownership of the Unit and shall not apply to subsequent Owners who take title to the Unit after adoption of the rule.

(h) Reasonable Rights To Develop. No rule or action by the Association or Board shall unreasonably interfere Declarant's right to develop, market and sell property within the Community.

(i) Interference with Easements. No rule may unreasonably interfere with the exercise of any easement.

**Section 3.6 PUD/Zoning Ordinance; Commitments**. Notice is hereby given that the Community is subject to the PUD/Zoning Ordinance. The PUD/Zoning Ordinance, as hereafter amended, is incorporated by reference, and each Owner by its acceptance of a deed to any Unit acknowledges that the foregoing shall burden the Unit and the Community and agrees to be bound thereby.

Pursuant to the Commitments, the Commitments are binding on each Owner, subsequent owners, and other persons or entities acquiring an interest therein (collectively, the "Owner Parties"), and each Owner shall have an affirmative duty to inform any third parties with whom Owner negotiates for a possible sale, lease, assignment, mortgage, or transfer of the Unit of the existence of the Commitments. In the event any sale, lease, assignment, mortgage, or transfer occurs, Owner shall ensure that a copy of the Commitments is incorporated into any such written agreement with the third party. If Owner fails to comply with the terms of this paragraph and the third party fails to perform and/or comply with the Commitments, the Town of Zionsville, Indiana shall be entitled to receive from Owner and each Owner Parties, jointly and/or severally, any and all damages which arise from this failure and shall be entitled to injunctive relief to terminate any non-compliance herewith. Further, pursuant to the Commitments, Owner and Owner Parties, jointly and/or severally, are obligated to indemnify the Plan Commission of the Town of Zionsville, Indiana and/or the Town of Zionsville, Indiana and hold said entities and their respective authorized representatives, including the Director of Planning for the Town of Zionsville, Indiana, harmless from any liability, expense (including reasonable attorneys' fees and court costs), costs, and/or damages which result from the failure to perform Owner's obligations under the Commitments and/or to comply with the terms and conditions contained therein.

To the extent there is any conflict between the restrictions in this Declaration and the restrictions in the PUD/Zoning Ordinance, the more restrictive shall control; provided, the provisions of both the Declaration and the PUD/Zoning Ordinance shall be followed to the fullest extent possible.

**Section 3.7 Amenities Sharing Easement**. Notwithstanding anything to the contrary contained herein, notice is hereby given that the Amenities Sharing Easement is of Record. The Amenities Sharing Easement, as hereafter amended, is incorporated by reference. To the extent there is any conflict between this Declaration and the Amenities Sharing Easement, solely with respect to the Recreational Facilities and all matters pertaining to the Recreational Facilities (including but not limited to modifications to the Recreational Facilities, assessments for repairs and maintenance, and rules of use), the Amenities Sharing Easement shall control.

**ARTICLE 4**  
**DESIGN AND LANDSCAPING**

**Section 4.1 General.** All site work, landscaping, structures, improvements (including, but not limited to new construction, repainting (except as noted below), reconstruction, modification, enlargement, and remodeling), and other items placed on a Unit in a manner or location visible from outside of any existing structures on the Unit are subject to standards for design, landscaping, and aesthetics adopted pursuant to the Architectural Guidelines, the Design Guidelines and the approval procedures set forth in this **Article 4**.

No Owner, other than Declarant or a Builder authorized by Declarant, may obstruct or rechannel drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Declarant, authorized Builders, and the Association shall have such right; provided, the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Unit without the Owner's consent.

No prior approval is necessary to repaint the exterior of existing structures using the most recently approved color scheme for such structures. Generally, no approval is required for work done to the interior of a structure; however, modifications to the interior of screened porches, patios, and any other portions of a structure visible from outside of the structure do require prior approval as do any modifications, enlargements, remodeling, or exterior change that requires a building permit to be issued by the Local Authority.

Any dwelling constructed on a Unit shall be designed by and built in accordance with the plans and specifications of a licensed architect.

Approval under this **Article 4** is not a substitute for any approvals, consents, permits or reviews required by any municipality or governmental agency or entity having jurisdiction over architectural or construction matters.

**Section 4.2 Design Review.**

(a) **New Construction Committee.** Each Owner, by accepting a deed or other instrument conveying any interest in any portion of the Community, acknowledges that no residence shall be constructed or reconstructed on such Owner's Unit unless and until such Owner has received prior written approval from the new construction committee (the "NCC"), which approval may be granted or withheld in the NCC's sole discretion; provided, further that no approval shall be given if the submitted plans and specifications (the "Plans") do not comply in all material respects with the Architectural Guidelines and the Design Guidelines. The NCC shall be responsible for the review of the Plans for the construction of all new residences within the Community. The NCC shall consist of three (3) Persons, who shall serve and may be removed and replaced in the Declarant's or Board's discretion, as applicable. The members of the NCC need not be Members of the Association or representatives of Members, and except as otherwise provided, may, but need not, include architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the Declarant or the Board, as applicable. During the Declarant Control Period, Declarant shall appoint the members of the NCC, and upon the expiration of the Declarant Control Period, the Board shall appoint the members of the NCC.

(b) **Construction Modification Review Board.** Each Owner, by accepting a deed or other instrument conveying any interest in any portion of the Community, acknowledges that

following NCC approval of construction of the initial residence on a Unit or reconstruction of any such Unit, no residence on such Owner's Unit shall be modified, enlarged, remodeled or the exterior of the residence otherwise changed in a manner that requires a building permit to be issued by the Local Authority unless and until such Owner has received prior written approval from the construction modification review board (the "CMRB", also known as the "ARB" in the Architectural Guidelines attached hereto as Exhibit F), which approval may be granted or withheld in the CMRB's sole discretion; provided, however, approval shall only be given if the submitted Plans demonstrate compliance with the Architectural Guidelines and the Design Guidelines. The CMRB shall consist of three (3) Persons, who shall serve and may be removed and replaced in the Declarant's or Board's discretion, as applicable. The members of the CMRB need not be Members of the Association or representatives of Members, and except as otherwise provided, may, but need not, include architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the Declarant or the Board, as applicable. During the Declarant Control Period, Declarant shall appoint the members of the CMRB, and upon the expiration of the Declarant Control Period, the Board shall appoint the members of the CMRB.

(c) Fees; Assistance. For purposes of this **Article 4**, the entity having jurisdiction in a particular case (i.e., the NCC or the CMRB) shall be referred to as the "Reviewer." The Reviewer may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers or other professionals. The NCC shall employ an architect to assist it in the review of submitted plans. The CMRB may employ an architect to assist it in the review of submitted plans as deemed necessary. An architect employed by either the NCC or the CMRB may also be one of the three members of the NCC or CMRB. The Board may include the compensation of such Persons in the Association's annual operating budget as a Common Expense.

### **Section 4.3 Guidelines and Procedures.**

(a) Architectural Guidelines. Pursuant to the Commitments, the Architectural Guidelines shall be applicable to all of the Community. The Architectural Guidelines are intended to provide guidance to Owners and Builders regarding matters of particular concern to the Reviewer in considering applications hereunder. The Reviewer shall make the Architectural Guidelines available to Owners and Builders who seek to engage in development or construction within the Community. The Architectural Guidelines are not the exclusive basis for decisions of the Reviewer, and compliance with the Architectural Guidelines does not guarantee approval of any application.

(b) Design Guidelines. Declarant has prepared the initial supplemental Design Guidelines, which may contain additional design requirements applicable to all of the Community. The Design Guidelines are intended to provide guidance to Owners and Builders regarding matters of particular concern to the Reviewer in considering applications hereunder. The Design Guidelines are not the exclusive basis for decisions of the Reviewer and compliance with the Design Guidelines does not guarantee approval of any application.

The Architectural Guidelines are not subject to amendment except pursuant to applicable approvals from the Local Authority. However, Declarant shall have sole and full authority to amend the Design Guidelines as long as it owns any portion of the Community or has a right to expand the Community pursuant to **Section 9.1**. Upon termination of Declarant's right to amend, the CMRB shall have the authority to amend the Design Guidelines with the approval of the

Board. Any amendments to the Design Guidelines shall be prospective only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Design Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Design Guidelines less restrictive.

The Reviewer shall make the Design Guidelines available to Owners and Builders who seek to engage in development or construction within the Community. In Declarant's discretion, such Design Guidelines may be Recorded, in which event the Recorded version, as it may be amended from time to time, shall control in the event of any dispute as to which version of the Design Guidelines was in effect at any particular time. To the extent there is any conflict between the Design Guidelines and the Architectural Guidelines, the more restrictive shall control; provided, the provisions of both the Design Guidelines and the Architectural Guidelines shall be followed to the fullest extent possible.

(c) Procedures. No activity within the scope of this **Article 4 ("Work")** shall commence on any portion of the Community until an application for approval has been submitted to, and approved by, the Reviewer. Such application shall include Plans showing site layout, structural design, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, irrigation, and other features of proposed construction, as applicable. The Architectural Guidelines, the Design Guidelines and the Reviewer may require the submission of such additional information as may be reasonably necessary to consider any application.

In reviewing each submission, the Reviewer may consider any factors it deems relevant, including, without limitation, harmony of external design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements.

The Reviewer shall, within thirty (30) days after receipt of a completed application and all required information, respond in writing to the applicant at the address specified in the application. The response may (i) approve the application, with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application. The Reviewer may, but shall not be obligated to, specify the reasons for any objections and/or offer suggestions for curing any objections.

Notice shall be deemed to have been given at the time the envelope containing the response is deposited with the U. S. Postal Service. Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery to the applicant.

If construction does not commence on a project for which Plans have been approved within one (1) year after the date of approval, such approval shall be deemed withdrawn and it shall be necessary for the Owner to reapply for approval before commencing the proposed Work. Once construction is commenced, it shall be diligently pursued to completion. All Work shall be completed within one (1) year of commencement unless otherwise specified in the notice of approval or unless the Reviewer grants an extension in writing, which it shall not be obligated to do. If approved Work is not completed within the required time, it shall be considered nonconforming and shall be subject to enforcement action by the Association, Declarant or any aggrieved Owner.

The Reviewer may, by resolution, exempt certain activities from the application and approval requirements of this **Article 4**, provided such activities are undertaken in strict compliance with the requirements of such resolution and otherwise comply with the Architectural Guidelines.

**Section 4.4 No Waiver of Future Approvals.** Each Owner acknowledges that the persons reviewing applications under this **Article 4** will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Architectural Guidelines and the Design Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features of proposed Work until the Work is completed, in which case it may be unreasonable to require changes to the improvements involved, but the reviewer may refuse to approve similar proposals in the future. Approval of applications or Plans for any Work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar applications, Plans, or other matters subsequently or additionally submitted for approval.

**Section 4.5 Variances.** The Reviewer may authorize variances from compliance with any of the Design Guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. No variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) estop the Reviewer from denying a variance in other circumstances. For purposes of this **Section 4.5**, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance. No variances from compliance with the Architectural Guidelines shall be given by the Reviewer.

**Section 4.6 Limitation of Liability.** The standards and procedures established by this **Article 4** are intended as a mechanism for maintaining and enhancing the overall aesthetics of the Community; they do not create any duty to any Person. Review and approval of any application pursuant to this **Article 4** is made on the basis of aesthetic considerations only and the Reviewer shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all dwellings are of comparable quality, value or size or of similar design.

Declarant, the Association, the Board, the NCC, the CMRB, any committee, or member of any of the foregoing shall not be held liable for soil conditions, drainage or other general site work, any defects in plans revised or approved hereunder, or any injury, damages, or loss arising out of the manner or quality of approved construction on or modifications to any Unit. In all matters, the Board, the NCC, the CMRB, and any members thereof shall be defended and indemnified by the Association as provided in **Section 7.6**.

**Section 4.7 Certificate of Compliance.** Any Owner may request that the Reviewer issue a certificate of compliance certifying that there are no known violations of this **Article 4**, Architectural Guidelines, or the Design Guidelines. The Association shall either grant or deny such request within thirty (30) days after receipt of a written request and may charge a reasonable administrative fee for issuing such certificates. Issuance of such a certificate shall estop the Association from taking enforcement action with respect to any condition as to which the Association had actual notice as of the date of such certificate, except for, with respect to Architectural Guidelines and any PUD/Zoning Ordinance, any notice of non-compliance received thereafter by the Local Authority.

**ARTICLE 5**  
**MAINTENANCE AND REPAIR**

**Section 5.1 Maintenance of Units.** Each Owner shall maintain his or her Unit and all structures, parking areas, and other improvements comprising the Unit in a manner consistent with the Community-Wide Standard and the Governing Documents, unless such maintenance responsibility is otherwise assumed by, or assigned to, the Association pursuant to this Declaration, any Supplemental Declaration or other covenants applicable to such Unit. In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may perform such maintenance responsibilities and assess all costs incurred by the Association against the Unit and the Owner in accordance with **Section 8.5**. The Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation.

**Section 5.2 [Intentionally Omitted].**

**Section 5.3 Responsibility for Repair and Replacement.** Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning such maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement, as necessary. All maintenance shall be performed in a manner consistent with the Community-Wide Standard and all applicable covenants. The Association shall not be liable for any damage or injury occurring on, or arising out of the condition of, property which it does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

By virtue of taking title to a Unit, each Owner covenants and agrees with all other Owners and with the Association to carry property insurance for the full replacement cost of all insurable improvements on his or her Unit, less a reasonable deductible, unless the Association carries such insurance (which they may, but are not obligated to do hereunder). If the Association assumes responsibility for obtaining any insurance coverage on behalf of Owners, the premiums for such insurance shall be levied as a Specific Assessment against the benefited Unit and the Owner.

Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising his Unit, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with **Article 4**. Alternatively, the Owner shall clear the Unit and maintain it in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs which are not covered by insurance proceeds.

**ARTICLE 6**  
**THE ASSOCIATION AND ITS MEMBERS**

**Section 6.1 Function of Association.** The Association is the entity responsible for management, maintenance, operation and control of the Area of Common Responsibility. The Association also is the primary entity responsible for administration and enforcement of the Governing Documents. The Association shall perform its functions in accordance with the Governing Documents and Indiana law.

**Section 6.2 Membership.** There shall be only one membership per Unit. If a Unit is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in **Section 6.3** and in the By-Laws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners.

The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association. The Association shall maintain a current roster of all members, including, without limitation, the mailing address, legal description of their Unit; and for those members who have expressly consented to receive notice by other means, the email, fax, or other alternate means of notice that the Association shall permit.

**Section 6.3** **Voting.** The Association shall have two classes of membership, Class "A" and Class "B."

(a) **Class "A".** Class "A" Members shall be all Owners except the Class "B" Member, if any. Class "A" Members shall have one equal vote for each Unit in which they hold the interest required for membership under **Section 6.2**; provided, there shall be only one vote per Unit and no vote shall be exercised for any property which is exempt from assessment under **Section 8.9**. In any situation where there is more than one Owner of a Unit, the vote for such Unit shall be exercised as the co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Unit's vote shall be suspended if more than one Person seeks to exercise it.

(b) **Class "B".** The sole Class "B" Member shall be the Declarant. So long as the Class "B" membership exists and unless otherwise expressly provided herein, the Class "B" member shall be entitled to four (4) votes for each Unit of which it or H&S is the Owner on all matters requiring a vote of the Members. The rights of the Class "B" Member, including the right to approve, or withhold approval of, actions proposed under the Governing Documents, are specified in the relevant provisions of the Governing Documents. The Class "B" Member is authorized (as Declarant) to appoint the members of the Board of Directors during the Declarant Control Period, as specified in the By-Laws. The Class "B" membership shall terminate upon the first to occur of: (a) the date upon which the written resignation of the Class "B" Member is delivered to the resident agent of the Association, (b) the date when Declarant and H&S no longer own any Units, or (c) ten (10) years after the recording of this Declaration. Upon termination of the Class "B" membership, the Declarant and H&S shall each be a Class "A" Member entitled to one vote for each Unit it owns.

## **ARTICLE 7**

### **ASSOCIATION POWERS AND RESPONSIBILITIES**

**Section 7.1** **Acceptance and Control of Association Property.** The Declarant and its designees may transfer or convey to the Association interests in real or personal property within or for the benefit of the Community, and the Association shall accept such transfers and conveyances. Such property may be improved or unimproved and may consist of fee simple title, easements, leases, licenses, or other real or personal property interests. Transfers of such real property or personal property may be made by quitclaim deed or quitclaim bill of sale, respectively, and shall be subject to all encumbrances, agreements, liens, and matters of record. No express or written acceptance of such property shall be required from the Association to be effective and acceptance of any such transfer by the Association shall be deemed granted hereby.

Upon the Declarant's written request, the Association shall reconvey to the Declarant any unimproved real property that the Declarant originally conveyed to the Association for no payment, to the extent conveyed in error or needed to make adjustments in property lines or accommodate changes in the development plan.

The Association is responsible for management, operation, and control of the Common Area, subject to any covenants set forth in the deed or other instrument transferring the property to the Association. The Association may enter into leases, licenses, or operating agreements with respect to portions of the Common Area, for payment or no payment, as the Board deems appropriate. The Association may permit use of Common Area facilities by persons other than Owners and occupants of Units and may charge use fees, in such amount as the Board may establish, for such use.

**Section 7.2 Maintenance of Area of Common Responsibility.** The Association shall maintain and keep in good repair the Area of Common Responsibility, which shall include, but need not be limited to:

- (a) the Common Area and all improvements and structures situated thereon;
- (b) landscaping within public rights-of-way within or abutting the Community;
- (c) any ponds, streams and/or wetlands located within the Community which serve as part of the drainage and storm water retention system for the Community, including any retaining walls, bulkheads or dams (earthen or otherwise) retaining water therein; and any storm water management facilities subject to any agreement or easement in favor of the applicable governmental authorities;
- (d) such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, Plat, any Supplemental Declaration, or any contract or agreement for maintenance thereof entered into by the Association or Declarant; and
- (e) any property and facilities owned by the Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members, such property and facilities to be identified by written notice from the Declarant to the Association and to remain a part of the Area of Common Responsibility and to be maintained by the Association unless and until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association.

The Association may maintain other property which it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

The Association's obligation to maintain the Area of Common Responsibility shall include, but not be limited to, the obligation to undertake any monitoring, maintenance, repair, replacement or other action required by any applicable permits, licenses or approvals issued by any governmental agency for the Community.

There are hereby reserved to the Association easements over the Community as necessary to enable the Association to fulfill such responsibilities. The Association shall maintain the facilities and improvements within the Area of Common Responsibility in continuous operation, except for any periods necessary, as determined in the sole discretion of the Board, to perform required maintenance or repairs, unless Members representing 75% of the Class "A" votes in the Association and the Class "B" Member, if any, agree in writing to discontinue such operation.

Except as otherwise provided, the Area of Common Responsibility shall not be reduced by amendment of this Declaration or any other means except with the prior written approval of the Declarant as long as the Declarant owns any property described on Exhibit A of this Declaration. Notwithstanding

the forgoing or anything to the contrary contained herein, pursuant to the Commitments, all open space, Common Area, and recreational areas depicted on the primary Plat for the Community shall be reserved, protected and maintained as open space, Common Area, and recreational areas.

Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense to be allocated among all Units as part of the Base Assessment, without prejudice to the right of the Association to seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, other Recorded covenants, or agreements with the owner(s) thereof.

**Section 7.3 Insurance.**

(a) **Required Coverages.** The Association shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) blanket property insurance covering “risks of direct physical loss” on a “special form” basis (or comparable coverage by whatever name denominated) for all insurable improvements on the Common Area and within the Area of Common Responsibility to the extent that the Association has assumed responsibility in the event of a casualty, regardless of ownership. If such coverage is not generally available at reasonable cost, then “broad form” coverage may be substituted. All property insurance policies the Association obtains shall have policy limits sufficient to cover the full replacement cost of the insured improvements under current building codes and ordinances;

(ii) commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, such coverage (including primary and any umbrella coverage) shall have a limit of at least \$1,000,000.00 per occurrence and \$3,000,000.00 in the aggregate with respect to bodily injury, personal injury, and property damage; provided, should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits;

(iii) workers compensation insurance and employers liability insurance, if and to the extent required by law;

(iv) directors and officers liability coverage;

(v) commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's business judgment but not less than an amount equal to one-quarter of the annual Base Assessments on all Units plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation; and

(vi) such additional insurance as the Board, in its business judgment, determines advisable, which may include, without limitation, flood insurance, boiler and machinery insurance, and building ordinance coverage.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses.

(b) Policy Requirements. The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in the county in which the Community exists.

All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Member insured.

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of **Section 7.3(a)**. In the event of an insured loss, the deductible shall be treated as a Common Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Units as a Specific Assessment pursuant to **Section 8.5**.

All insurance coverage obtained by the Board shall:

(i) be written with a company authorized to do business in the State of Indiana which satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(ii) be written in the Association's name as trustee for the benefited parties. Policies on the Common Area shall be for the benefit of the Association and its Members;

(iii) not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;

(iv) contain an inflation guard endorsement; and

(v) include an agreed amount endorsement, if the policy contains a co-insurance clause.

In addition, to the extent commercially available and allowed under existing insurance regulations, the Board shall use reasonable efforts to secure insurance policies which list the Owners as additional insureds and provide:

(vi) a waiver of subrogation as to any claims against the Association's Board, officers, employees, and its manager, the Owners and their tenants, servants, agents, and guests;

(vii) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(viii) an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure;

(ix) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

(x) an endorsement requiring at least thirty (30) days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

(xi) a cross liability provision; and

(xii) a provision vesting in the Board exclusive authority to adjust losses; provided, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

(c) **Damage and Destruction.** Immediately after damage or destruction to all or any part of the Community covered by insurance written in the name of the Association, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair or reconstruction, as used in this subsection, means repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Any damage to or destruction of the Common Area shall be repaired or reconstructed unless the Members representing at least 75% of the total Class "A" votes in the Association, and the Class "B" Member, if any, decide within sixty (60) days after the loss not to repair or reconstruct. In the event the Common Area damaged or destroyed is Exclusive Common Area, Members representing at least 75% of the Units to which the Exclusive Common Area is assigned must also agree not to repair or reconstruct the Exclusive Common Area. In the event the damaged or destroyed Common Area contains any Recreational Facilities, at least 75% of the combined Community Members and owners of units in Hampshire must also agree to not repair or reconstruct the affected Recreational Facilities. If either the insurance proceeds or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not available to the Association within such 60-day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If determined in the manner described above that the damage or destruction to the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by and for the benefit of

the Association and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board of Directors may, without a vote of the Members, levy a Special Assessment to cover the shortfall.

**Section 7.4 Compliance and Enforcement.**

(a) Every Owner and occupant of a Unit shall comply with the Governing Documents. The Board may impose sanctions for violation of the Governing Documents after notice and a hearing in accordance with the procedures set forth in the By-Laws. Subject to any limitations, conditions, or requirements under applicable laws, such sanctions may include, without limitation:

(i) imposing reasonable monetary fines which shall constitute a lien upon the violator's Unit. (In the event that any occupant, guest or invitee of a Unit violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the violator; provided, however, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board);

(ii) suspending an Owner's right to vote subject to any limitations of applicable law including, without limitation, Ind. Code § 32-25.5-3-7;

(iii) suspending any Person's right to use any Recreational Facilities; provided, nothing herein shall authorize the Board to limit ingress or egress to or from a Unit;

(iv) suspending any services provided by the Association to an Owner or the Owner's Unit if the Owner is more than thirty (30) days delinquent in paying any assessment or other charge owed to the Association;

(v) exercising self-help or taking action to abate any violation of the Governing Documents in a non-emergency situation;

(vi) requiring an Owner, at its own expense, to remove any structure or improvement on such Owner's Unit in violation of **Article 4** and to restore the Unit to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass;

(vii) without liability to any Person, precluding any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of **Article 4**, the Architectural Guidelines and the Design Guidelines from continuing or performing any further activities in the Community; and

(viii) levying Specific Assessments to cover costs incurred by the Association to bring a Unit into compliance with the Governing Documents.

(b) In addition, the Board may take the following enforcement procedures to ensure compliance with the Governing Documents without the necessity of compliance with the procedures set forth in the By-Laws but at all times subject to any limitations, conditions, or requirements under applicable law:

(i) exercising self-help in any emergency situation (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations);

(ii) Recording a notice of lien against a Unit for assessments due under this Declaration without the requirement of the signature of or any further consent of the Owner and enforcing such lien in the manner provided hereunder or in accordance with the procedure under applicable law for the enforcement of mechanic's liens and/or common law liens; and

(iii) bringing suit at law or in equity to enjoin any violation, to recover monetary damages or to foreclose a lien.

(c) In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may, if otherwise permitted by law, Record a notice of violation and may perform such maintenance responsibilities and assess all costs incurred by the Association against the Unit and the Owner as a Specific Assessment. Except in an emergency situation, the Association shall provide the Owner reasonable notice and an opportunity to cure the problem prior to taking such enforcement action.

(d) All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys' fees, filing fees, paralegal fees, title search and review charges, court costs, and all other costs and expenses reasonably incurred in such action.

(e) The decision to pursue enforcement action in any particular case shall be left to the Board's discretion. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

(i) the Association's position is not strong enough to justify taking any or further action;

(ii) the covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with applicable law;

(iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

(iv) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue an enforcement action.

Such a decision shall not be a waiver of the Association's right to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction, or rule.

(f) The Association, by contract or other agreement, may enforce applicable Local Authority ordinances, if applicable, and permit any Local Authority having jurisdiction over the Community to enforce ordinances within the Community for the benefit of the Association and its Members.

**Section 7.5 Implied Rights; Board Authority.** The Association may exercise any right or privilege given to it expressly by the Governing Documents, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents, and subject to any limitations of applicable law including, without limitation, Ind. Code § 32-25.5, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

**Section 7.6 Indemnification of Officers, Directors and Others.** To the fullest extent permitted by Indiana law, the Association shall indemnify every officer, director, and committee member against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under the Articles and Indiana law.

The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual gross negligence, intentional misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

**Section 7.7 Security.** The Association may, but shall not be obligated to, maintain or support certain activities within the Community designed to make the Community safer than it otherwise might be. Neither the Association nor Declarant shall in any way be considered insurers or guarantors of security within the Community, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to the Community, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants and all occupants of its Unit that the Association, its Board and committees, and Declarant are not insurers and that each Person using the Community assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties.

**Section 7.8 [Intentionally Omitted].**

**Section 7.9 Provision of Services.** The Association may provide or provide for services and facilities for the Members, their guests, lessees, and invitees, and shall be authorized to enter into and terminate contracts or agreements with other entities, including Declarant, to provide such services and facilities. The Board may charge use and consumption fees for such services and facilities. By way of example, some services and facilities which might be offered include landscape maintenance, pest control

service, cable television service, caretaker, transportation, fire protection, utilities, and similar services and facilities. Unless expressly provided otherwise herein, nothing herein shall be construed as a representation by Declarant or the Association as to what, if any, services shall be provided. In addition, the Board shall be permitted to modify or cancel existing services provided, in its discretion, unless otherwise required by the Governing Documents. No Owner shall be exempt from the obligation to pay for such services, if provided to all Owners or Units as a Common Expense based upon non-use or any other reason. Notwithstanding the foregoing or anything to the contrary contained herein, the Board shall not enter into any contract that would result in a new assessment or the increase in an existing assessment payable by Members in the amount in excess of the amount permitted by Ind. Code § 32-25.5-3.4 (or any successor for replacement statute) unless the Board follows the applicable notice and voting procedures established by Ind. Code § 32-25.5-3.4 (or any successor for replacement statute) to the extent applicable.

**Section 7.10 Relations with Other Properties.** The Association may enter into contractual agreements or covenants to share costs with any neighboring property to contribute funds for, among other things, shared or mutually beneficial property or services or a higher level of Common Area maintenance.

**Section 7.11 Facilities and Services Open to the Public.** Certain facilities and areas within the Community may be open for use and enjoyment of the public. Such facilities and areas may include, by way of example: roads, greenbelts, trails and paths, parks, docks, and other neighborhood spots conducive to gathering and interaction, roads, sidewalks, and medians. Declarant may designate such facilities and areas as open to the public at the time Declarant makes such facilities and areas a part of the Area of Common Responsibility or the Board may so designate at any time thereafter. Use by the public may be made subject to the payment of user fees. The Board may adopt rules and regulations governing the public's use of any services, facilities, or areas within the Community.

## **ARTICLE 8** **ASSOCIATION FINANCES**

**Section 8.1 Budgeting and Allocating Common Expenses.** At least sixty (60) days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses for the coming year, including any contributions to be made to a reserve fund pursuant to **Section 8.3**. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Units, and the amount to be generated through the levy of Base Assessments and Special Assessments against the Units, as authorized in **Section 8.6**.

The Association is hereby authorized to levy Base Assessments equally against all Units subject to assessment under **Section 8.6** to fund the Common Expenses. In determining the Base Assessment rate per Unit, the Board may consider any assessment income expected to be generated from any additional Units reasonably anticipated to become subject to assessment during the fiscal year.

Declarant may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under **Section 8.7(b)**), which may be either a contribution, an advance against future assessments due from Declarant, or a loan, in Declarant's discretion. Any such subsidy shall be disclosed as a line item in the income portion of the budget. Payment of such subsidy in any year shall not obligate Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and Declarant.

The Board shall send a copy of the final budget, together with notice of the amount of the Base Assessment to be levied pursuant to such budget, to each Owner at least thirty (30) days prior to the

effective date of such budget. The budget shall be approved as provided in the By-Laws. Unless otherwise contrary to applicable law (in which event, the requirements of applicable law shall control), there shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Members as provided for special meetings in the By-Laws, which petition must be presented to the Board within ten (10) days after delivery of the budget and notice of any assessment; and the failure to obtain a quorum of the membership at such meeting shall not prevent the budget from becoming automatically effective.

If any proposed budget for any year is not approved timely in accordance with the By-Laws (e.g., failure of a quorum), the Board may approve on its own a budget equal to no more than 110% of the budget most recently approved in accordance with the By-Laws until a new budget is approved.

The Board may revise the budget and adjust the Base Assessment from time to time during the year, subject to the notice requirements and the right of the Members to disapprove the revised budget as set forth above.

**Section 8.2 [Intentionally Omitted].**

**Section 8.3 Budgeting for Reserves.** The Board shall prepare and review at least annually a reserve budget for the Area of Common Responsibility. The budgets shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall include in the Common Expense budget adopted pursuant to **Section 8.1**, a capital contribution to fund reserves in an amount sufficient to meet the projected need with respect both to amount and timing by annual contributions over the budget period.

**Section 8.4 Special Assessments.** In addition to other authorized assessments, the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment may be levied against the entire membership, if such Special Assessment is for Common Expenses. Except as otherwise specifically provided in this Declaration, any Special Assessment for a Common Expense shall require the affirmative vote or written consent of Owners representing more than 50% of the total Class "A" votes in the Association. Any Special Assessment shall also require the affirmative vote or written consent of the Class "B" Member, if such exists. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved. Notwithstanding the foregoing, Special Assessments that are less than or equal to 25% of the current Base Assessment may be imposed without the affirmative vote of the Members to which such Special Assessment applies.

**Section 8.5 Specific Assessments.** The Association shall have the power to levy Specific Assessments against a particular Unit as follows:

- (a) to cover the costs, including overhead and administrative costs, of providing services to the Unit, upon request of the Unit Owner, pursuant to any menu of special services which may be offered by the Association (which might include the items identified in **Section 7.9**) Specific Assessments for special services may be levied in advance of the provision of the requested service; and
- (b) to cover costs incurred in bringing the Unit into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall

give the Unit Owner prior written notice and an opportunity for a hearing, in accordance with the By-Laws, before levying any Specific Assessment under this subsection (b).

**Section 8.6 Authority To Assess Owners; Time of Payment.** Declarant hereby establishes and the Association is hereby authorized to levy assessments as provided for in this **Article 8** and elsewhere in the Governing Documents. The obligation to pay assessments shall commence as to each Unit on the first day of the month following: (a) the month in which the Unit is improved with a completed structure capable of occupancy and is conveyed by Declarant, H&S, or Builder to an Owner, or (b) the month in which the Board first determines a budget and levies assessments pursuant to this **Article 8**, whichever is later. The first annual Base Assessment levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of assessments at closing of the transfer of title to a Unit and impose special requirements for Owners with a history of delinquent payment. Unless the Board otherwise provides, the Base Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any installment of any assessments or other charges levied on his Unit, the Board may require the outstanding balance on all assessments to be paid in full immediately.

**Section 8.7 Obligation for Assessments.**

(a) **Personal Obligation.** Each Owner, by accepting a deed or entering into a Recorded contract of sale for any portion of the Community, is deemed to covenant and agree to pay all assessments authorized in the Governing Documents. All assessments, together with interest (computed from its due date at a rate of 10% per annum or such higher rate as the Board may establish, subject to the limitations of Indiana law), late charges as determined by Board resolution, costs, and reasonable attorneys' fees, shall be the personal obligation of each Owner and a lien upon each Unit until paid in full. Upon a transfer of title to a Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance.

Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

No Owner may exempt himself from liability for assessments by non-use of Common Area, abandonment of his Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

Upon written request, the Association shall furnish to any Owner liable for any type of assessment a certificate in writing signed by an Association officer setting forth whether any such assessment has been paid or remains unpaid. Such certificate shall be conclusive evidence of payment and shall be binding on the Association and the Members. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

(b) **Declarant's and H&S's Option to Make Contribution to the Association.** During the Class "B" membership, neither Declarant nor H&S shall have any obligation to pay assessments (whether Base, Special or Specific) on Units which it owns. Declarant and H&S shall each have the right, but not the obligation, to make a contribution to the Association by paying assessments on Units it owns in the same manner as any other Owner or by paying the difference between the amount of assessments levied on all other Units subject to assessment and the amount of actual expenditures by the Association during the fiscal year. This contribution may, at the election of either Declarant or H&S, be made in the form of a loan to the Association. Regardless of Declarant's or H&S's election, Declarant's and/or H&S's contribution hereunder may be made in the form of cash or by "in kind" contributions of services or materials, or by a combination of these. After termination of the Class "B" membership, Declarant and H&S shall pay assessments on their respective unsold Units in the same manner as any other Owner.

**Section 8.8 Lien for Assessments.** The Association shall have a lien against each Unit to secure payment of delinquent assessments, as well as interest, late charges, fines (subject to the limitations of Indiana law), and costs of collection (including attorneys' fees, filing fees, paralegal fees, title search and review charges, court costs, and all other costs of collection). Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any Recorded first Mortgage (meaning any Recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgment, judicial or nonjudicial foreclosure in the same manner as provided under Indiana law for mechanic's liens or other common law liens.

The Association may bid for the Unit at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Unit. While a Unit is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessments shall be levied on it; and (c) each other Unit shall be charged, in addition to its usual assessments, its pro rata share of the assessments that would have been charged such Unit had it not been acquired by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

Sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. However, the sale or transfer of any Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to the Mortgagee's foreclosure. The subsequent Owner to the foreclosed Unit shall not be personally liable for assessments on such Unit due prior to such acquisition of title; and such delinquent unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment under **Section 8.6**, including such acquirer, its successors and assigns.

**Section 8.9 Exempt Property.** The following property shall be exempt from payment of Base Assessments and Special Assessments:

- (a) All Common Area and such portions of the property owned by Declarant and H&S that are included in the Area of Common Responsibility; and
- (b) Any property dedicated to and accepted by any governmental authority or public utility.

**Section 8.10 Capitalization of Association.** Upon acquisition of record title to a Unit by the first Owner thereof other than Declarant, H&S, or a Builder, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount equal to 50% of the annual Base

Assessment per Unit for that year. This amount shall be in addition to, not in lieu of, the annual Base Assessment and shall not be considered an advance payment of such assessment. This amount shall be deposited into the purchase and sales escrow and disbursed therefrom to the Association for use in covering operating expenses and other expenses incurred by the Association pursuant to the Governing Documents.

**ARTICLE 9**  
**EXPANSION OF THE COMMUNITY**

**Section 9.1 Expansion by Declarant.** Until twenty (20) years after the date this Declaration is Recorded, Declarant may from time to time unilaterally subject to the provisions of this Declaration additional real property adjacent to the Community. The Declarant may transfer or assign this right to annex property, provided that the transferee or assignee is the developer of at least a portion of said real property and that such transfer is memorialized in a written, Recorded instrument executed by Declarant.

Such annexation shall be accomplished by Recording a Supplemental Declaration describing the property being annexed. Such Supplemental Declaration shall not require the consent of Members, but shall require the consent of the owner of such property, if other than Declarant. Any such annexation shall be effective upon the Recording of such Supplemental Declaration unless otherwise provided therein. Nothing in this Declaration shall be construed to require the Declarant or any successor to annex or develop any additional real property in any manner whatsoever.

**Section 9.2 Expansion by the Association.** The Association may annex any real property to the provisions of this Declaration with the consent of the owner of such property, the affirmative vote of Members representing a majority of the Class "A" votes of the Association represented at a meeting duly called for such purpose, and the consent of the Declarant so long as Declarant or H&S owns property subject to this Declaration or which may become subject to this Declaration in accordance with **Section 9.1.**

Such annexation shall be accomplished by Recording a Supplemental Declaration describing the property being annexed. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Association, and by the owner of the annexed property, and by the Declarant, if the Declarant's consent is required. Any such annexation shall be effective upon Recording unless otherwise provided therein.

**Section 9.3 Additional Covenants and Easements.** The Declarant may subject any portion of the Community to additional covenants and easements by Recording a Supplemental Declaration, concurrent with or after the annexation of the subject property, setting forth such additional covenants and easements. Any such Supplemental Declaration shall require the written consent of the owner(s) of the subject property, if other than the Declarant. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

**Section 9.4 Effect of Filing Supplemental Declaration.** A Supplemental Declaration shall be effective upon Recording unless otherwise specified in such Supplemental Declaration. On the effective date of the Supplemental Declaration, any additional property subjected to this Declaration shall be assigned voting rights in the Association and assessment liability in accordance with the provisions of this Declaration.

**ARTICLE 10**  
**ADDITIONAL RIGHTS RESERVED TO DECLARANT**

**Section 10.1 Withdrawal of Property.** The Declarant reserves the right to amend this Declaration so long as it has a right to annex additional property pursuant to this **Section 10.1**, for the purpose of removing any portion of the Community from the coverage of this Declaration, subject, however, to any limitations, requirements, and conditions required by applicable laws. Such amendment shall not require the consent of any Person other than the Owner of the property to be withdrawn, if not the Declarant.

**Section 10.2 Marketing and Sales Activities.** Declarant and Builders authorized by Declarant may construct and maintain upon portions of the Common Area (but not the Recreational Facilities) such facilities and activities as, in Declarant's sole opinion, may be reasonably required, convenient, or incidental to the construction or sale of Units, including, but not limited to, business offices, signs, model units, construction offices, and sales offices. Declarant and authorized Builders shall have easements for access to and use of such facilities and shall not be subject to fees or rental charges.

**Section 10.3 Right To Develop.** Declarant reserves for itself and its employees, agents and designees a right of access and use and an easement over and upon all of the Common Area for the purpose of making, constructing and installing such improvements to the Common Area as it deems appropriate in its sole discretion.

Every Person that acquires any interest in the Community acknowledges that the Community is a planned community, the development of which is likely to extend over many years, and agrees not to protest, challenge or otherwise object to (a) changes in uses or density of property, or (b) changes in the Master Plan.

**Section 10.4 Right To Approve Additional Covenants.** So long as Declarant or H&S owns property subject to this Declaration or which may become subject to this Declaration in accordance with **Section 9.1**, no Person shall Record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Community without Declarant's review and written consent. Any attempted Recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed and Recorded by Declarant.

**Section 10.5 Right To Approve Changes in Community Standards.** No amendment to or modification of any Rules or Design Guidelines shall be effective without prior notice to and the written approval of Declarant so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with **Section 9.1**.

**Section 10.6 Right To Transfer or Assign Declarant Rights.** Any or all of Declarant's special rights and obligations set forth in this Declaration or the By-Laws may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration or the By-Laws. No such transfer or assignment shall be effective unless it is in a written instrument signed and Recorded by Declarant. The foregoing sentence shall not preclude Declarant from permitting other Persons to exercise, on a one time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety, and in such case it shall not be necessary to Record any written assignment unless necessary to evidence Declarant's consent to such exercise.

**Section 10.7 Exclusive Rights To Use Name of Development.** No Person shall use the name “Pemberton” or any derivative of such name in any printed or promotional material without Declarant's prior written consent. However, Owners may use the name “Pemberton” in printed or promotional matter where such term is used solely to specify that particular property is located within “Pemberton” and the Association shall be entitled to use the words “Pemberton” in its name.

**Section 10.8 Termination of Rights.** Unless expressly provided otherwise herein, the rights contained in this Article 10 shall not terminate until the earlier of (a) 20 years from the date this Declaration is Recorded, subject, however, to any limitations, requirements, and conditions required by applicable laws or (b) Recording by Declarant of a written statement that all sales activity has ceased.

**Section 10.9 Amendment.** This Article 10, and any other provision of this Declaration that reserves or grants Declarant any right or privilege, may not be amended without the written consent of the Declarant, so long as Declarant or H&S owns any property within the Community or has the right to subject additional property to this Declaration pursuant to Section 9.1, subject, however, to any limitations, requirements, and conditions required by applicable laws

**ARTICLE 11**  
**EASEMENTS**

**Section 11.1 Easements in Common Area.** Every Owner shall have a right and nonexclusive easement of use, access, and enjoyment in and to the Common Area, subject to:

- (a) The Governing Documents and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) Subject to any limitations, requirements, and conditions required by applicable law, the right of the Board to:
  - (i) adopt rules pursuant to Article 3 regulating the use and enjoyment of the Common Area, including rules limiting the number of guests who may use the Common Area;
  - (ii) suspend the right of an Owner to use Recreational Facilities (A) for any period during which any charge against such Owner's Unit remains delinquent, and (B) for a period not to exceed thirty (30) days for a single violation, or for a longer period in the case of any continuing violation, of the Governing Documents after notice and a hearing pursuant to the By-Laws;
  - (iii) dedicate or transfer all or any part of the Common Area, subject to such approval requirements as may be set forth in this Declaration;
  - (iv) impose reasonable membership requirements and charge reasonable admission or other use fees for the use of any Recreational Facilities, or allow the board of Hampshire to charge such fees; and
  - (v) permit use of any Recreational Facilities by persons other than Owners, their families, lessees and guests upon payment of such use fees as the Board may establish, including, but not limited to the Amenities Sharing Easement; and

(vi) mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

(d) The rights of certain Owners to the exclusive use of those portions of the Common Area designated Exclusive Common Areas, as described in **Article 12**.

Any Owner may extend his or her right of use and enjoyment of the Common Area to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases his or her Unit shall be deemed to have assigned all such rights of use and enjoyment of the Common Area to the lessee of such Unit.

**Section 11.2 Easements of Encroachment.** There shall be reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area and between adjacent Units due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

Notwithstanding the foregoing, Declarant reserves for itself and its employees, agents and designees, a right of access and use and an easement over and upon all of the Community (but not through a structure) to the extent reasonably necessary for the purpose of installing and maintaining roads, trails, pathways and walkways for the enjoyment, use, access, and development of the Community. This shall include, but not be limited to, the right to locate a portion of such roads, trails, pathways and walkways on a Unit for a distance that exceeds three feet from the common boundary for the benefit of the Declarant, the Association and its Members, provided such encroachment does not eliminate the ability of the Owner of such Unit to construct or maintain a dwelling on the Unit. The Declarant further reserves for itself, the Association and the Members, a right of access and use and an easement over such roads, trails, pathways and walkways. Such encroachment, and any use of such roads, trails, pathways and walkways shall not be deemed a trespass.

**Section 11.3 Easements for Utilities, Etc.**

(a) **Installation and Maintenance.** There are hereby reserved to the Declarant, so long as Declarant or H&S owns any property described on **Exhibit A** of this Declaration, the Association, and the designees of each (which may include, without limitation, any governmental or quasi-governmental entity and any utility company) perpetual non-exclusive easements upon, across, over, and under all of the Community (but not through a structure) to the extent reasonably necessary for the purpose of monitoring, replacing, repairing, maintaining and operating cable television systems, master television antenna systems, and other devices for sending or receiving data and/or other electronic signals; security and similar systems; roads, walkways, pathways and trails; wetlands and drainage systems; street lights and signage; all Common Area improvements; and all utilities, including, but not limited to, water, sewers, telephone, gas, and electricity, and utility meters; and for the purpose of installing any of the foregoing on property which the Declarant, H&S, or the Association owns or within easements designated for such purposes on any Plat. This shall include, but not be limited to, the right to temporarily place construction materials and debris on Units and the Common Area.

Declarant specifically grants to the local water supplier, electric company, and natural gas supplier easements across the Community for ingress, egress, installation, reading, replacing,

repairing, and maintaining utility lines, meters and boxes, as applicable; provided that except for service lines constructed on a Unit to serve such Unit, no such lines, meters, and boxes shall be installed without Declarant's consent except in utility easements created by Plat or separate easement instrument.

(b) **Specific Easements.** There is hereby reserved to the Declarant, so long as the Declarant or H&S owns any property described on **Exhibit A** of this Declaration, the non-exclusive right and power to grant such specific easements as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of any property described on **Exhibit A**.

(c) Any damage to a Unit resulting from the exercise of the easements described in subsections (a) and (b) of this **Section 11.3** shall be promptly repaired by, and at the expense of, the Person exercising the easement. The exercise of these easements shall not extend to permitting entry into the structures on any Unit, nor shall it unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant of such Unit.

**Section 11.4 Intentionally Omitted.**

**Section 11.5 Easements for Maintenance, Emergency and Enforcement.** Declarant grants to the Association easements over the Community as necessary to enable the Association to fulfill its maintenance responsibilities under Section 7.2. The Association shall also have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance and to inspect for the purpose of ensuring compliance with and enforce the Governing Documents. Such right may be exercised by any member of the Board and its duly authorized agents and assignees, and all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

**Section 11.6 Easements for Wetlands and Water Feature Maintenance and Flood Water.** Declarant reserves for itself, the Association, and their successors, assigns, and designees, the nonexclusive right and easement, but not the obligation, to enter upon any bodies of water and wetlands, if any, located within the Area of Common Responsibility to (a) install, operate, maintain, and replace pumps to supply irrigation water to the Area of Common Responsibility; (b) construct, maintain, and repair structures and equipment used for retaining water; and (c) maintain such areas in a manner consistent with the Community-Wide Standard. Declarant, the Association, and their successors, assigns and designees shall have an access easement over and across any portion of the Community abutting or containing bodies of water or wetlands to the extent reasonably necessary to exercise their rights under this Section 11.6. Declarant further reserves for itself, the Association, and their successors, assigns and designees, a perpetual, nonexclusive right and easement of access and encroachment over the Common Area and Units (but not the dwellings thereon) adjacent to or within 100 feet of bodies of water and wetlands within the Community, in order to (a) temporarily flood and back water upon and maintain water over such portions of the Community; (b) alter in any manner and generally maintain the bodies of water and wetlands within the Area of Common Responsibility; and (c) maintain and landscape the slopes and banks pertaining to such areas. All persons entitled to exercise these easements shall use reasonable care in and repair any damage resulting from the intentional exercise of such easements. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to heavy rainfall or other natural occurrences.

**Section 11.7 Conservation and Preservation Easement.** In connection with the Existing Declaration, and since the growth of trees is strongly encouraged in the Community, no Owner shall be

permitted to remove a tree greater than three inches (3”) in diameter upon his or her Unit unless it is diseased or dead. For trees that are not diseased or dead, the Owner must seek the prior approval of the Reviewer for permission to remove a tree. The Reviewer may consider whatever factors are reasonably appropriate in rendering a decision, such as the Owner’s desire to make improvements on his or her Unit or whether tree removal would improve drainage.

**ARTICLE 12**  
**EXCLUSIVE COMMON AREAS**

**Section 12.1 Purpose.** Certain portions of the Common Area, excluding the Recreational Facilities, may be designated as Exclusive Common Area and assigned for the exclusive use or primary benefit of one or more Units within the Community. By way of illustration and not limitation, Exclusive Common Areas may include common driveways, entry features, landscaped medians and cul-de-sacs, lakes and other portions of the Common Area. At the election of the Board, all costs associated with maintenance, repair, replacement, and insurance of an Exclusive Common Area may be allocated among the Units to which the Exclusive Common Area is assigned and assessed as a Specific Assessment.

**Section 12.2 Designation.** Initially, any Exclusive Common Area shall be designated as such in the Supplemental Declaration submitting such property to the Declaration, in the deed conveying such area to the Association, a Recorded declaration by Declarant, or on a Plat relating to such Common Area. Any such designation shall not preclude Declarant from later assigning use of the same Exclusive Common Area to additional Units, so long as Declarant has a right to subject additional property to this Declaration pursuant to **Section 9.1**.

Thereafter, a portion of the Common Area may be assigned as Exclusive Common Area and Exclusive Common Area may be reassigned upon approval of the Board and the vote of a majority of the total Class "A" votes in the Association, including a majority of the Class "A" votes for the Units affected by the proposed assignment or reassignment. As long as Declarant or H&S owns any property subject to this Declaration or which may become subject to this Declaration in accordance with **Section 9.1**, any such assignment or reassignment shall also require Declarant's written consent.

**Section 12.3 Use by Others.** Upon approval of a majority of Class "A" votes of Units to which any Exclusive Common Area is assigned, the Association may permit Owners of other Units to use all or a portion of such Exclusive Common Area upon payment of reasonable user fees, which fees shall be used to offset the expenses attributable to such Exclusive Common Area.

**ARTICLE 13**  
**PARTY WALLS AND OTHER SHARED STRUCTURES**

**Section 13.1 General Rules of Law to Apply.** Each wall, fence, driveway or similar structure built as a part of the original construction on the Units which serves and/or separates any two adjoining Units shall constitute a party structure. To the extent not inconsistent with the provisions of this **Article 13**, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

**Section 13.2 Maintenance; Damage and Destruction.** The cost of reasonable repair and maintenance of a party structure shall be shared equally by the Owners who make use of the party structure. If a party structure is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the structure may restore it. If other Owners thereafter use the structure, they shall contribute to the restoration cost in equal proportions. However, such contribution will not prejudice the right to call

for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions.

**Section 13.3 Right to Contribution Runs With Land.** The right of any Owner to contribution from any other Owner under this **Article 13** shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

#### **ARTICLE 14** **LIMITATION ON LITIGATION**

Except as provided in this **Article 14**, the Association shall not commence a judicial or administrative proceeding without the approval of Owners representing at least 75% of the Class "A" votes in the Association and the consent of the Class "B" member. This **Article 14** shall not apply, however, to (a) actions brought by the Association to enforce the Governing Documents (including, without limitation, the foreclosure of liens); (b) the collection of assessments; (c) proceedings involving challenges to ad valorem taxation; or (d) counterclaims brought by the Association in proceedings instituted against it. This **Article 14** shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

#### **ARTICLE 15** **MORTGAGEE PROVISIONS**

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Units in the Community.

**Section 15.1 Notices of Action.** An institutional holder, insurer, or guarantor of a first Mortgage which provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Unit to which its Mortgage relates, thereby becoming an "**Eligible Holder**"), will be entitled to timely written notice of:

- (a) Any condemnation loss or any casualty loss which affects a material portion of the Community or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such **Eligible Holder**;
- (b) Any delinquency in the payment of assessments or charges owed by a Unit subject to the Mortgage of such **Eligible Holder**, where such delinquency has continued for a period of sixty (60) days, or any other violation of the Governing Documents relating to such Unit or the Owner or Occupant which is not cured within sixty (60) days; or
- (c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association.

**Section 15.2 Other Provisions for First Lien Holders.** To the extent not inconsistent with Indiana law:

- (a) Any restoration or repair of the Community after a partial condemnation or damage due to an insurable hazard shall be performed substantially in accordance with this Declaration and the original plans and specifications unless the approval is obtained of the **Eligible Holders** of first Mortgages on Units to which more than 50% of the votes of Units subject to Mortgages held by such **Eligible Holders** are allocated.

(b) Any election to terminate the Association after substantial destruction or a substantial taking in condemnation shall require the approval of the Eligible Holders of first Mortgages on Units to which more than 50% of the votes of Units subject to Mortgages held by such Eligible Holders are allocated.

**Section 15.3 No Priority.** No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

**Section 15.4 Notice to Association.** Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

## **ARTICLE 16** **CHANGES IN OWNERSHIP OF UNITS**

Any Owner desiring to sell or otherwise transfer title to his or her Unit shall give the Board at least seven (7) days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Unit, including assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title.

## **ARTICLE 17** **CHANGES IN COMMON AREA**

**Section 17.1 Condemnation.** If any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Members representing at least 67% of the total Class "A" votes in the Association and of Declarant, as long as Declarant or H&S owns any property subject to the Declaration or which may be made subject to the Declaration in accordance with **Section 9.1**) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance. Such award or proceeds shall be payable to the Association to be disbursed as follows:

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within sixty (60) days after such taking Declarant, so long as Declarant or H&S owns any property subject to the Declaration or which may be made subject to the Declaration in accordance with **Section 9.1**, and Members representing at least 75% of the total Class "A" vote of the Association shall otherwise agree. Notwithstanding the foregoing, in the event the taken or conveyed Common Area contains any Recreational Facilities, at least 75% of the combined Community Members and owners of units in Hampshire must agree to not restore or replace the affected Recreational Facilities. Any such construction shall be in accordance with plans approved by the Board. The provisions of **Section 7.3(c)** regarding funds for restoring improvements shall apply.

If the taking or conveyance does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

**Section 17.2 Partition.** Except as permitted in this Declaration, the Common Area shall remain undivided, and no Person shall bring any action partition of any portion of the Common Area without the written consent of all Owners and Mortgagees. This Section 17.2 shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Declaration.

**Section 17.3 Transfer or Dedication of Common Area.** The Association may dedicate portions of the Common Area to any Local Authority or to any other state, or federal governmental or quasi-governmental entity.

## **ARTICLE 18** **GENERAL PROVISIONS**

### **Section 18.1 Duration.**

(a) Unless terminated as provided in Section 18.1(b), this Declaration shall have perpetual duration. If Indiana law hereafter limits the period during which covenants may run with the land, then to the extent consistent with such law, this Declaration shall automatically be extended at the expiration of such period for successive periods of twenty (20) years each, unless terminated as provided herein.

(b) Unless otherwise provided by Indiana law, in which case such law shall control, this Declaration may not be terminated within the first twenty (20) years after the date of Recording without the consent of all Unit Owners. Thereafter, it may be terminated only by a Recorded instrument signed by Owners of at least 75% of the Class "A" votes and by the Declarant, if the Declarant or H&S owns any portion of the Community. Nothing in this Section 18.1 shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

### **Section 18.2 Amendment.**

(a) The Owners may amend this Declaration with the consent of (i) at least 75% of the Class "A" votes; and (ii) the Declarant; provided that Declarant's consent shall only be required to the extent (1) the Declarant or H&S still owns one (1) or more Units in the Community, and (2) not more than seven (7) years have passed since the Recording of this Declaration. Notwithstanding the following, the consent of 95% of the Class "A" votes shall be required to convey common area (except by Declarant to the Association or as otherwise expressly provided or permitted herein) or to dissolve the plan of governance. Consent may be obtained by a vote of the Owners at a meeting duly called for the purpose of considering the amendment and/or by written consent signed by the Owners. Further, notwithstanding anything to the contrary contained herein, matters addressed in the Amenities Sharing Easement, whether or not also addressed herein, cannot be modified or amended without (i) compliance with the amendment procedures set forth herein, and (ii) the consent of the homeowners association for Hampshire as required under its declaration and governing documents.

(b) In addition to specific amendment rights granted elsewhere in this Declaration and provided that not more than seven (7) years have passed since the Recording of this Declaration, during the Declarant Control Period the Declarant may unilaterally amend this Declaration for any purpose, unless otherwise prohibited by applicable law. Thereafter, the Declarant may unilaterally amend this Declaration if such amendment is necessary (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or

judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on the Units; (c) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure, or guarantee mortgage loans on the Units; or (d) to satisfy the requirements of any local, state, or federal governmental agency. In addition, during the Class "B" membership, unless otherwise prohibited by applicable law, the Declarant may unilaterally amend this Declaration for any other purpose, provided the amendment is consistent with the overall plan of development for the Community.

(c) Notwithstanding the above, the percentage of votes necessary to amend a specific provision of this Declaration shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that provision; and no amendment may remove, revoke, or modify any right or privilege of the Declarant or the Class "B" Member without the written consent of the Declarant or the Class "B" Member, respectively (or the assignee of such right or privilege). If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment. Any amendment shall become effective upon Recording unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six (6) months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

**Section 18.3 Severability.** If any court determines that any provision of this Declaration is invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or applications of such provision in other instances.

**Section 18.4 Cumulative Effect; Conflict.** The provisions of this Declaration shall be cumulative with the provisions of any applicable Supplemental Declaration. Nothing in this **Section 18.4** shall preclude any Supplemental Declaration or other Recorded declaration, covenants and restrictions applicable to any portion of the Community from containing additional restrictions or provisions which are more restrictive than the provisions of this Declaration, and the Association shall have the standing and authority to enforce the same. If there are conflicts between any of the Governing Documents and Indiana law, Indiana law shall control. If there are conflicts between or among any of the Governing Documents, then the Declaration, the Articles, and the By-Laws (in that order) shall control.

**Section 18.5 Savings Clause.** If any covenants, restrictions or provisions contained in this Declaration shall be declared invalid or unenforceable, or a conflict with applicable law (including, without limitation, Ind. Code § 32-25.5-3-1 et seq.), such invalidity, unenforceability, or conflict shall not in any way affect any of the other provisions hereof, which shall remain valid and enforceable to the fullest extent permitted by law; provided that in lieu of such invalid, unenforceable, or conflicting provision, there will be added to this Declaration a provision as similar in terms to reflect the intent of Declarant as set forth herein to such invalid, unenforceable, or conflicting provision as may be possible and yet be valid, enforceable, and conforming to applicable law (or such provision shall be modified, as applicable, to the extent necessary to be valid, enforceable, and conforming to applicable law). Any mandatory obligation or provision required to be incorporated into any single family community by declaration of covenants executed on or before the date hereof (including, without limitation, Ind. Code § 32-25.5-3-1 et seq. or any successor statute(s)) is hereby incorporated by reference. Further, to the extent of a conflict in this Declaration with any mandatory requirement of Ind. Code § 32-25.5-3-1 et seq. (or any successor statute(s)) or any other mandatory requirement prescribed by Indiana or federal law

with regard to notice or consent of any party (including, without limitation, any mortgagee), the terms of Ind. Code § 32-25.5-3-1 et seq. (or any successor statute(s)) or such other applicable state or federal law shall control.

**Section 18.6 Exhibits.** Exhibit A attached to this Declaration is incorporated by this reference and amendment of such exhibit shall be governed by the provisions of **Section 18.2.** Exhibit C attached to this Declaration is incorporated by this reference and amendment of such exhibit shall be governed by the provisions of **Article 3.** All other exhibits are attached for informational purposes and may be amended, if at all, as provided therein.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 5<sup>th</sup> day of June, 2017.

[SIGNATURE PAGE FOLLOWS]

SIGNATURE PAGE TO  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR PEMBERTON

“DECLARANT”

ZIONSVILLE DEVELOPMENT LLC,  
an Indiana limited liability company

By: Hefner Real Estate Development, Inc.,  
its Manager

By: [Signature]  
Thomas L. Hefner, Vice President

STATE OF INDIANA )  
 ) SS:  
COUNTY OF Marion )

Before me, a Notary Public in and for said County and State, personally appeared Thomas L. Hefner, the Vice President of Hefner Real Estate Development, Inc., in its capacity as the Manager of Zionsville Development, LLC, who having been duly sworn acknowledged the execution of the foregoing for and on behalf of said entities.

Witness my hand and Notarial Seal this 5<sup>th</sup> day of June, 2017.

My Commission Expires:

05-13-2023

Rebecca M. Elsener  
Notary Public Residing in Marion County, Indiana  
[Signature]  
(Signature)



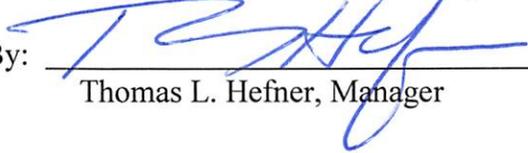
I affirm, under penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law. Jodie L. Schurtter

This instrument prepared by, and upon recording return to, Jodie L. Schurtter, Bose McKinney & Evans LLP, 111 Monument Circle, Suite 2700, Indianapolis, Indiana 46204.

JOINDER AND CONSENT

The undersigned, H&S, LLC, an Indiana limited liability company, as owner of the Phase II Property, more particularly described in Exhibit A of this Declaration of Covenants, Conditions and Restrictions for Pemberton (the "Declaration"), hereby joins in the execution of the Declaration for the purpose of consenting thereto, including specifically (i) the designation of Zionsville Development, LLC as sole (x) "Declarant" and (y) "Class 'B' Member" of the Community pursuant to the terms of the Declaration (casting its vote(s) as if it were Owner of any Units owned by H&S); and (ii) the submission of the Phase II Property to all of the covenants, conditions and restrictions of the Declaration, agreeing to be bound thereby.

H&S, LLC, an Indiana limited liability company

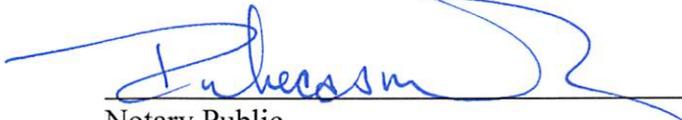
By:   
Thomas L. Hefner, Manager

STATE OF INDIANA )  
 ) SS:  
COUNTY OF Marion )

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Thomas L. Hefner, known to me to be the Manager of H&S, LLC, an Indiana limited liability company, and who acknowledged the execution of the above instrument for and on behalf of said entity.

Witness my hand and Notarial Seal this 5<sup>th</sup> day of June, 2017.

My Commission Expires:  
05-13-2023

  
Notary Public

My County of Residence:  
Marion

Rebecca M. Elsener  
[Printed]



**EXHIBIT A****Land Initially Submitted****Entire Pemberton Parcel (Phase I Property and Phase II Property combined):**

Parcel 3B: 4901 S 800 E; 06-08-28-000-015.000-006 and 5001 S 800 E; 06-08-33-000-001.000-006

Part of the Southwest Quarter of Section 28, Township 18 North, Range 2 East and part of the Northwest Quarter of Section 33, Township 18 North, Range 2 East, Eagle Township, Boone County, Indiana, being more particularly described as follows:

Beginning at the Southwest Corner of the Southwest Quarter of said Section 28; thence North 00 degrees 14 minutes 43 seconds West (Bearing based upon Warranty Deed recorded as Instrument #9803609 in the office of the recorder of Boone County, Indiana) along the West Line of the said Southwest Quarter Section a distance of 892.65 feet (the following three (3) described courses being along the centerline of Zionsville (Avenue) Road); thence South 70 degrees 16 minute 20 seconds East a distance of 511.18 feet; thence South 70 degrees 08 minutes 38 seconds East a distance of 602.67 feet; thence South 69 degrees 33 minutes 29 seconds East a distance of 319.96 feet to the East Line of the West Half of the said Southwest Quarter Section; thence South 00 degrees 11 minutes 34 seconds East along the said East Line a distance of 379.21 feet to the Northeast Corner of the Northwest Quarter of the Northwest Quarter of said Section 33; thence South 00 degrees 22 minutes 18 seconds East along the East Line of the Northwest Quarter of the Northwest Quarter of said Section 33 a distance of 1198.52 feet to the Northeast Corner of a 1.0000 acre tract of land per Trustee's Deed recorded as Instrument #0206336 in said recorder's office (the next two (2) described courses being along the North and West lines of said 1.0000 acre tract of land); thence South 88 degrees 57 minutes 54 seconds West a distance of 364.13 feet; thence South 00 degrees 18 minutes 43 seconds East a distance of 119.64 feet to the South Line of the Northwest Quarter of the Northwest Quarter of said Section 33; thence South 88 degrees 57 minutes 54 seconds West along the said South Line a distance of 982.55 feet to the Southwest Corner of the Northwest Quarter of the Northwest Quarter of said Section 33; thence North 00 degrees 18 minutes 51 seconds West along the West Line of the said Northwest Quarter Section a distance of 1318.04 feet to the Beginning Point, containing 59.428 acres, more or less.

**Phase I Property:**

Part of the Southwest Quarter of Section 28, and part of the Northwest Quarter of Section 22, both in Township 18 North, Range 2 East, Eagle Township, Boone County, Indiana and being more particularly described as follows:

Commencing at the Southwest corner of the Southwest Quarter of said Section 22 and being also the Northwest corner of the Northwest Quarter of said Section 33; thence South 00 degrees 18 minutes 52 seconds East (bearings are based on Warranty Deed, recorded as Instrument Number 9803609 in the Office of the Boone County Recorder) along the West line of the Northwest

Quarter of said Northwest Quarter a distance of 1318.04 feet to the **POINT OF BEGINNING**; thence North 89 degrees 41 minutes 08 seconds East 265.00 feet; thence South 00 degrees 18 minutes 52 seconds East 1.50 feet to a tangent curve to the left and from which the radius point bears North 89 degrees 41 minutes 08 seconds East; thence southerly, southeasterly, and easterly along said curve an arc distance of 42.50 feet to a point from which the radius point bears North 07 degrees 42 minutes 44 seconds West, and being a point of compound curvature, said curve having a radius of 25.00 feet; thence easterly along said compound curve an arc distance of 51.56 feet to a point from which the radius point bears North 18 degrees 39 minutes 13 seconds West, said curve having a radius of 270.00 feet; thence South 18 degrees 39 minutes 13 seconds East 221.94 feet; thence North 76 degrees 09 minutes 55 seconds East 78.05 feet; thence North 48 degrees 41 minutes 52 seconds East 768.66 feet to a non tangent curve to the left and from which the radius point bears South 74 degrees 02 minutes 28 seconds West; thence northwesterly along said curve an arc distance of 165.25 feet to a point from which the radius point bears South 19 degrees 56 minutes 13 seconds West, said curve having a radius of 175.00 feet; thence North 70 degrees 03 minutes 47 seconds West 53.17 feet; thence North 19 degrees 56 minutes 13 seconds East 220.00 feet; thence North 70 degrees 03 minutes 47 seconds West 500.00 feet; thence North 23 degrees 14 minutes 40 seconds West 123.42 feet; thence North 70 degrees 03 minutes 47 seconds West 204.67 feet; thence South 64 degrees 48 minutes 33 seconds West 80.59 feet; thence North 00 degrees 14 minutes 43 seconds West 465.71 feet; thence North 19 degrees 56 minutes 13 seconds East 55.00 feet to the centerline of Zionsville Road (also known as Whitestown Road); thence South 70 degrees 03 minutes 47 seconds East along said centerline 1195.12 feet to the East line of the Southwest Quarter of the Southwest Quarter of said Section 28; thence South 00 degrees 11 minutes 34 seconds East along said East line 379.21 feet to the Northwest Corner of the Northeast Quarter of the Northwest Quarter of said Section 33; thence South 00 degrees 22 minutes 18 seconds East along the East line of the Northeast Quarter of said Northwest Quarter a distance of 1198.52 feet; thence South 88 degrees 57 minutes 54 seconds West 364.23 feet; thence South 00 degrees 21 minutes 44 seconds East 119.64 feet to the South line of the Northwest Quarter of the Northwest Quarter of said Section 33; thence South 88 degrees 57 minutes 54 seconds West along said South line 982.56 feet to the Southwest corner of the Northwest Quarter of said Northwest Quarter; thence North 00 degrees 18 minutes 52 seconds West along the West line of the Northwest Quarter of said Northwest Quarter 648.27 feet to the Point of Beginning and containing 37.128 acres more or less.

Subject to a gas line easement in favor of Country Mark recorded in Deed Record Book 155, page 526 (Inst. No. 200700008725) in the Office of the Boone County Recorder.

Subject to a Power Transmission Line easement in favor of Duke Energy recorded as Instrument No. 0508964 in the Office of the Boone County Recorder.

**Phase II Property:**

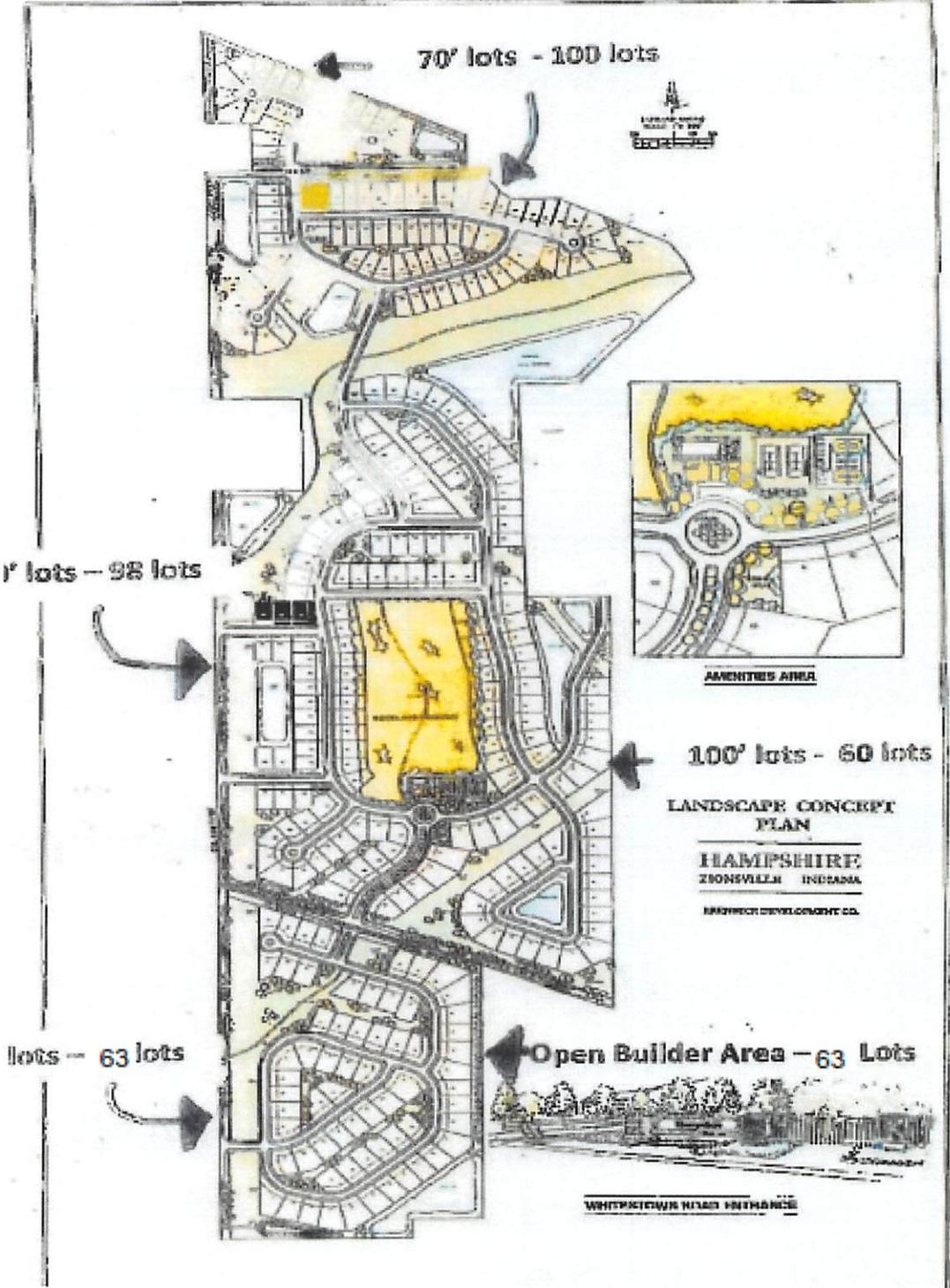
Part of the Southwest Quarter of Section 28, and part of the Northwest Quarter of Section 22, both in Township 18 North, Range 2 East, Eagle Township, Boone County, Indiana and being more particularly described as follows:

Commencing at the Southwest corner of the Southwest Quarter of said Section 22 and being also the Northwest corner of the Northwest Quarter of said Section 33; thence South 00 degrees 18 minutes 52 seconds East (bearings are based on Warranty Deed, recorded as Instrument Number 9803609 in the Office of the Boone County Recorder) along the West line of the Northwest Quarter of said Northwest Quarter a distance of 1318.04 feet to the **POINT OF BEGINNING**; thence North 89 degrees 41 minutes 08 seconds East 265.00 feet; thence South 00 degrees 18 minutes 52 seconds East 1.50 feet to a tangent curve to the left and from which the radius point bears North 89 degrees 41 minutes 08 seconds East; thence southerly, southeasterly, and easterly along said curve an arc distance of 42.50 feet to a point from which the radius point bears North 07 degrees 42 minutes 44 seconds West, and being a point of compound curvature, said curve having a radius of 25.00 feet; thence easterly along said compound curve an arc distance of 51.56 feet to a point from which the radius point bears North 18 degrees 39 minutes 13 seconds West, said curve having a radius of 270.00 feet; thence South 18 degrees 39 minutes 13 seconds East 221.94 feet; thence North 76 degrees 09 minutes 55 seconds East 78.05 feet; thence North 48 degrees 41 minutes 52 seconds East 768.66 feet to a non tangent curve to the left and from which the radius point bears South 74 degrees 02 minutes 28 seconds West; thence northwesterly along said curve an arc distance of 165.25 feet to a point from which the radius point bears South 19 degrees 56 minutes 13 seconds West, said curve having a radius of 175.00 feet; thence North 70 degrees 03 minutes 47 seconds West 53.17 feet; thence North 19 degrees 56 minutes 13 seconds East 220.00 feet; thence North 70 degrees 03 minutes 47 seconds West 500.00 feet; thence North 23 degrees 14 minutes 40 seconds West 123.42 feet; thence North 70 degrees 03 minutes 47 seconds West 204.67 feet; thence South 64 degrees 48 minutes 33 seconds West 80.59 feet; thence North 00 degrees 14 minutes 43 seconds West 465.71 feet; thence North 19 degrees 56 minutes 13 seconds East 55.00 feet to the centerline of Zionsville Road (also known as Whitestown Road); thence North 70 degrees 03 minutes 47 seconds West along said centerline 445.95 feet to the West line of the Southwest Quarter of the Southwest Quarter of said Section 28; thence South 00 degrees 14 minutes 43 seconds West along said West line 892.53 feet to the Point of Beginning and containing 22.245 acres more or less.

Subject to a gas line easement in favor of Country Mark recorded in Deed Record Book 155, page 526 (Inst. No. 200700008725) in the Office of the Boone County Recorder.

Subject to a Power Transmission Line easement in favor of Duke Energy recorded as Instrument No. 0508964 in the Office of the Boone County Recorder.

Pemberton is the parcel identified as "Open Builder Area" in the depiction below. This depiction is for illustrative purposes only, and is not intended to be binding for any purposes hereunder.



**EXHIBIT B**  
**CODE OF BY - LAWS**  
**OF**  
**PEMBERTON HOMEOWNERS ASSOCIATION, INC.**  
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**CODE OF BY - LAWS**

**OF**

**PEMBERTON HOMEOWNERS ASSOCIATION, INC.**

**ARTICLE I. IDENTIFICATION AND APPLICABILITY**

**Section 1.01 Identification and Adoption.** This Code of By-Laws of Pemberton Homeowners Association, Inc. is established pursuant to a certain Declaration of Covenants, Conditions and Restrictions for Pemberton (as the same may be amended and supplemented) creating a planned community located in Boone County, Indiana to be known as Pemberton ("Pemberton"). The Declaration is incorporated herein by reference, and all of the covenants, rights, restrictions and liabilities therein contained shall apply to and govern the interpretation of these By-Laws. The definitions and terms as defined and used in the Declaration shall have the same meaning in these By-Laws and reference is specifically made to Article 2 of the Declaration containing definitions of terms. In the event any of the terms and provisions of these By-Laws conflict with the Declaration, the terms and provisions of the Declaration shall control. The provisions of these By-Laws shall apply to Pemberton and the administration and conduct of the affairs of the Association. These By-Laws shall constitute the By-Laws of the Association.

**Section 1.02 Name, Registered Office and Resident Agent.** The name of the Association is Pemberton Homeowners Association, Inc. (hereinafter referred to as the "Association"). The address of the registered office of the Association is 6310 Ferguson Street, Indianapolis, IN 46220; the name and address of its Resident Agent is Bryan B. Woodruff, Bose McKinney & Evans LLP, 111 Monument Circle, Suite 2700, Indianapolis, Indiana 46204. The location of the registered office of the Association, or the designation of its Resident Agent, or both, may be changed at any time or from time to time when authorized by the Board of Directors by filing with the Secretary of State on or before the day any such change is to take effect or as soon as possible after the resignation or death of its Resident Agent or other unforeseen termination of its Resident Agent.

**Section 1.03 Individual Application.** All of the Owners, future Owners, tenants, future tenants, or their guests and invitees, or any other person that might use or occupy a Unit or any part of Pemberton, shall be subject to the restrictions, terms and conditions set forth in the Declaration and these By-Laws, and to any rules and regulations adopted by the Board of Directors as herein provided.

**Section 1.04 Membership.** The Association shall have two classes of membership, Class "A" and Class "B".

(a) Class "A". Class "A" Members shall be all Owners except Class "B" Members. Each Class "A" Member shall be entitled to one (1) vote for each Unit of which such Member is the Owner with respect to each matter submitted to a vote of Members upon which the Class "A" Members are entitled to vote. When more than one (1) person constitutes the Owner of a particular Lot, all such persons shall be Members of the Corporation, but all of such persons shall have only one (1) vote for such Unit, which vote shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Unit.

(b) Class "B". The sole Class "B" Member shall be the Declarant. So long as the

Class "B" membership exists and unless otherwise expressly provided herein, the Class "B" member shall be entitled to four (4) votes for each Unit of which it or H&S is the Owner on all matters requiring a vote of the Members. The rights of the Class "B" Member, including the right to approve, or withhold approval of, actions proposed under the Governing Documents, are specified in the relevant provisions of the Governing Documents.

The Class B membership shall cease and terminate upon the first to occur of: (a) the date upon which the written resignation of the Class B member as such is delivered to the resident agent of the Corporation, (b) the date when Declarant and H&S no longer own any Units, or (c) ten (10) years after the recording of the Declaration. Upon termination of the Class B membership, the Declarant and H&S shall each be a Class "A" Member entitled to one vote for each Unit it owns.

The termination of the Declarant Control Period shall be upon the first to occur of (i) the date upon which the written resignation of the Class B Member as such is delivered to the resident agent of the Corporation; or (ii) the date when Declarant and H&S no longer own any Units.

## **ARTICLE II. MEETINGS OF ASSOCIATION**

**Section 2.01 Purpose of Meetings.** At least annually, and at such other times as may be necessary, a meeting of the members shall be held for the purpose of electing the Board of Directors (subject to the provisions of Section 3.02 hereof), receiving the annual budget, and for such other purposes as may be necessary or required by the Declaration or these By-Laws.

**Section 2.02 Annual Meetings.** The annual meeting of the members of the Association shall be held on the third Tuesday of November in each calendar year. At the annual meeting the members shall (subject to the provisions of Section 3.02 hereof) elect the Board of Directors of the Association in accordance with the provisions of these By-Laws and transact such other business as may properly come before the meeting.

**Section 2.06 Special Meetings.** A special meeting of the members of the Association may be called by resolution of the Board of Directors or upon a written petition of Owners who have in the aggregate at least a majority of the votes of all Owners. The resolution or petition shall be presented to the President or Secretary of the Association and shall state the purpose for which the meeting is to be called. No business shall be transacted at a special meeting except as stated in the petition or resolution.

**Section 2.07 Notice and Place of Meetings.** All meetings of the members of the Association shall be held at any suitable place in Boone County, Indiana, as may be designated by the Board of Directors. Written notice stating the date, time and place of any meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered or mailed by the Secretary of the Association to each member entitled to vote thereat not less than ten (10) days prior to the date of such meeting. The notice shall be mailed or delivered to the members at the addresses of their respective Units and not otherwise. Attendance at any meeting in person, by agent or by proxy shall constitute a waiver of notice of such meeting.

### **Section 2.08 Voting and Conduct of Meetings.**

- (a) **Number of Votes.** With respect to each matter on which a member is entitled to vote, such member shall be entitled to cast such votes as provided in Section 6.2 of the Declaration.
- (b) **Proxy.** A member may vote either in person or by his duly authorized and designated

attorney-in-fact. Where voting is by proxy, the member shall duly designate his attorney-in-fact in writing, delivered to the Secretary of the Association prior to the commencement of the meeting.

- (c) **Quorum.** Except where otherwise expressly provided in the Declaration, these By-Laws or the Indiana Nonprofit Association Act of 1991 (hereinafter referred to as the "Statute"), the members representing one third (1/3) of the votes of all members shall constitute a quorum at all meetings.
- (d) **Conduct of Annual Meeting.** The President of the Association shall act as the Chairman of all annual meetings of the Association if he is present. At all annual meetings, the Chairman shall call the meeting to order at the duly designated time and business will be conducted in the following order:
  - (1) **Reading of Minutes.** The Secretary shall read the minutes of the last annual meeting and the minutes of any special meeting held subsequent thereto, unless such reading is waived by a majority of the votes of all members attending the annual meeting.
  - (2) **Treasurer's Report.** The Treasurer shall report to the members concerning the financial condition of the Association and answer relevant questions of the members concerning the Common Expenses and financial report for the prior year and the proposed budget for the current year.
  - (3) **Budget.** The budget for the following fiscal year shall be presented to the members.
  - (4) **Election of Board of Directors.** Nominations for the Board of Directors may be made by any member from those persons eligible to serve. Such nominations must be in writing and presented to the Secretary of the Association prior to or at the date of the annual meeting. Voting for the Board of Directors will be by paper ballot. The ballot shall contain the name of each person nominated to serve as a Board member. Each member may cast the total number of votes to which he is entitled for as many nominees as are to be elected; however, he shall not be entitled to cumulate his votes. Those persons receiving the highest number of votes shall be elected. Each voting member shall sign his ballot. The foregoing provisions are subject to the provisions of Section 3.02 hereof.
  - (5) **Other Business.** Other business may be brought before the meeting only upon a written request submitted to the Secretary of the Association at least seven (7) days prior to the date of the meeting; provided, however, that such written request may be waived at the meeting if agreed by a majority of the votes of all members attending the annual meeting.
  - (6) **Adjournment.**

- (e) **Conduct of Special Meeting.** The President of the Association shall act as Chairman of any special meetings of the Association if he is present. The Chairman shall call the meeting to order at the duly designated time and the only business to be considered at such meeting shall be in consideration of the matters for which such meeting was called, as set forth in the notice of such special meeting.

### **ARTICLE III. BOARD OF DIRECTORS**

**Section 3.01 Management.** The affairs of the Association and Pemberton shall be governed and managed by the Board of Directors (herein collectively called "Board" or "Directors" and individually called "Director"). The Board of Directors shall be composed of three (3) persons. No person shall be eligible to serve as a Director unless he is, or is deemed in accordance with the Declaration to be, an Owner, excluding a person appointed by Declarant as provided in Section 3.02 hereof.

**Section 3.02 Initial Board of Directors.** The Initial Board of Directors shall be appointed by Declarant and need not be Owners. Notwithstanding anything to the contrary contained in, or any other provisions of, these By-Laws or the Declaration or elsewhere (a) the Initial Board shall hold office until the termination of the Declarant Control Period, as set forth in Section 1.04 above, and (b) in the event of a vacancy occurring in the Initial Board for any reason or cause whatsoever, prior to termination of the Declarant Control Period, such vacancy shall be filled by a person appointed by Declarant, who shall thereafter be deemed a member of the Initial Board.

**Section 3.03 Term of Office and Vacancy.** Subject to the provisions of Section 3.02 hereof, at least one (1) member of the Board of Directors shall be elected at each annual meeting of the Association. The Initial Board shall be deemed to be elected and re-elected as the Board of Directors at each annual meeting until the termination of the Declarant Control Period as provided herein. After termination of the Declarant Control Period, each member of the Board of Directors shall be elected for a term of three (3) years, except that at the first election after the termination of the Declarant Control Period one (1) member of the Board of Directors shall be elected for a three (3) year term, one (1) member for a two (2) year term, and one (1) member for a one (1) year term so that the terms of at least one-third (1/3) of the Directors shall expire annually. If such first election is at a special meeting, the Directors elected shall serve for the applicable period plus the time from the special meeting to the first annual meeting. There shall be separate nominations for the office of each Director to be elected at such first election after the termination of the Declarant Control Period. Each Director shall hold office throughout the term of his election and until his successor is elected and qualified. Subject to the provisions of Section 3.02 hereof as to the Initial Board, any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining Directors or by vote of the members if a Director is removed in accordance with Section 3.05 of this Article III. The Director so filling a vacancy shall serve until the next annual meeting of the members and until his successor is elected and qualified. At the first annual meeting following any such vacancy, a Director shall be elected for the balance of the term of the Director so removed or in respect to whom there has otherwise been a vacancy.

**Section 3.04 Removal of Directors.** A Director or Directors, except the members of the Initial Board, may be removed with or without cause by vote of a majority of the votes of all members at a special meeting of the members duly called and constituted for such purpose. In such case, his successor shall be elected at the same meeting from eligible members nominated at the meeting. A Director so elected shall serve until the next annual meeting of the members and until his successor is duly elected and qualified.

**Section 3.05 Duties of the Board of Directors.** The Board of Directors shall provide for the administration of Pemberton, the maintenance, upkeep and replacement of the Common Area and the establishment of a budget and the collection and disbursement of the Common Expenses. The Board may, on behalf of the Association, employ a reputable and recognized professional property management agent (herein called the "Managing Agent") upon such terms as the Board shall find, in its discretion, reasonable and customary. The Managing Agent shall assist the Board in carrying out its duties, which include, but are not limited to:

(a) protection, surveillance and replacement of the Common Area; provided, however, that this duty shall not include or be deemed or interpreted as a requirement that the Corporation, the Board or any Managing Agent must provide any on-site or roving guards, security service or security system for protection or surveillance, and the same need not be furnished;

(b) landscaping, maintenance and upkeep of the Area of Common Responsibility (except as is otherwise the obligation of an Owner);

(c) assessment and collection from the Owners of the Owner's share of the Common Expenses;

(d) preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time as the notice of annual meeting is mailed or delivered;

(e) preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred in the prior year; such accounting shall be delivered to each Owner simultaneously with delivery of the proposed annual budget for the current year;

(f) keeping a current, accurate and detailed record of receipts and expenses affecting the Area of Common Responsibility and the business and affairs of the Corporation, specifying and itemizing the Common Expenses; all records and vouchers shall be available for examination by an Owner at any time during normal business hours;

(g) procuring and maintaining for the benefit of the Corporation and the Board the insurance coverages required under the Declaration and such other insurance coverages as the Board, in its sole discretion, may deem necessary or advisable; and

(h) paying taxes assessed against and payable with respect to the Area of Common Responsibility and paying any other necessary expenses and costs in connection with the Area of Common Responsibility.

(i) appointing, following the Declarant Control Period, members for the NCC and CMRB as set forth in Section 4.2 of the Declaration.

(j) overseeing any necessary action or interface with Hampshire based upon the terms set forth in the Amenities Sharing Easement as forth in Section 3.7 of the Declaration.

(k) enforcing the provisions of the Governing Documents in accordance with Indiana Code 32-25.5-5.

**Section 3.06 Powers of the Board of Directors.** The Board of Directors shall have such powers as are reasonable and necessary to accomplish the performance of their duties. These powers include, but are not limited to, the power:

- (a) to employ a Managing Agent to assist the Board in performing its duties;
- (b) to purchase, lease or otherwise obtain for the Corporation to enable it to perform its functions and duties, such equipment, materials, labor and services as may be necessary in the judgment of the Board of Directors;
- (c) to employ legal counsel, architects, contractors, accountants and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business and affairs of the Corporation;
- (d) to employ, designate, discharge and remove such personnel as in the judgment of the Board of Directors may be necessary for the Board of Directors to perform its duties;
- (e) to include the costs of all of the above and foregoing as Common Expenses and to pay all of such costs therefrom;
- (f) to open and maintain a bank account or accounts in the name of the Corporation;
- (g) to promulgate, adopt, revise, amend and alter from time to time such additional rules and regulations with respect to use, occupancy, operation and enjoyment of the Area of Common Responsibility (in addition to those set forth in the Declaration) as the Board, in its discretion, deems necessary or advisable; provided, however, that copies of any such additional rules and regulations so adopted by the Board shall be promptly delivered or mailed to all Owners.

**Section 3.07 Limitation on Board Action.** After the termination of the Declarant Control Period, the authority of the Board of Directors to enter into contracts shall be limited to contracts involving a total expenditure of less than \$5,000.00 without obtaining the prior approval of a majority of the members, except that in the following cases such approval shall not be necessary:

- (a) contracts for replacing or restoring portions of the Easements damaged or destroyed by fire or other casualty where the cost thereof is payable out of insurance proceeds actually received;
- (b) proposed contracts and proposed expenditures expressly set forth in the proposed annual budget; and
- (c) expenditures necessary to deal with emergency conditions in which the Board of Directors reasonably believes there is insufficient time to call a meeting of the members.

**Section 3.08 Compensation.** No Director shall receive any compensation for his services as such director.

**Section 3.09 Meetings.** Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors. The Secretary shall give notice of regular meetings of the Board to each Director personally or by United States mail at least five (5) days prior to the date of such meeting.

Special meetings of the Board may be called by the President or any two members of the Board. The person or persons calling such meeting shall give written notice thereof to the Secretary who shall either personally or by mail, and at least ten (10) days prior to the date of such special meeting, give notice to the Board members. The notice of the meeting shall contain a statement of the purpose for which the meeting is called. Such meeting shall be held at such place and at such time within Boone County, Indiana, or any of the contiguous counties, as shall be designated in the notice.

**Section 3.10 Waiver of Notice.** Before any meeting of the Board, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. The presence of any Director at a meeting or his subsequent consent to the actions taken thereat, shall, as to such Director, constitute a waiver of notice of the time, place and purpose thereof. If all Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

**Section 3.11 Quorum.** At all meetings of the Board a majority of the Directors shall constitute a quorum for the transaction of business and the votes of the majority of the Directors present at a meeting at which a quorum is present shall be the decision of the Board.

**Section 3.12 Non-Liability of Directors.** The Directors shall not be liable to the Owners or any other persons for any error or mistake of judgment exercised in carrying out their duties and responsibilities as Directors, except for their own individual willful misconduct, bad faith or gross negligence. The Association shall indemnify and hold harmless and defend each of the Directors against any and all liability to any person, firm or Association arising out of contracts made by the Board on behalf of Pemberton or the Association, unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or these By-Laws. It is intended that the Directors shall have no personal liability with respect to any contract made by them on behalf of Pemberton or the Association.

**Section 3.13 Additional Indemnity of Directors.** The Association shall indemnify, hold harmless and defend any person, his heirs, assigns and legal representatives, made a party to any action, suit or proceeding by reason of the fact that he is or was a Director of the Association, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein, except as otherwise specifically provided herein in such action, suit or proceeding where such Director is adjudged liable for bad faith, gross negligence or willful misconduct in the performance of his duties. The Association shall also reimburse to any such Director the reasonable costs of settlement of or judgment rendered in any action, suit or proceeding, if it shall be found by a majority of the votes of the Owners that such Director was not guilty of gross negligence or willful misconduct. In making such findings and notwithstanding the adjudication in any action, suit or proceeding against a Director, no Director shall be considered or deemed to be guilty of or liable for negligence or misconduct in the performance of his duties where, acting in good faith, such Director relied on the books and records of the Association or statements or advice made by or prepared by the Managing Agent (if any) or any officer or employee thereof, or any accountant, attorney or other person, firm or Association employed by the Association to render advice or service unless such Director had actual knowledge of the falsity or incorrectness thereof; nor shall a Director be deemed guilty of or liable for negligence or misconduct by virtue of the fact that he failed or neglected to attend a meeting or meetings of the Board of Directors.

**Section 3.14 Bond.** The Board of Directors may provide surety bonds and require the Managing Agent (if any), the Treasurer of the Association and such other officers as the Board deems necessary to provide surety bonds indemnifying the Association against larceny, theft, embezzlement, forgery, misappropriation, willful misapplication and other acts of fraud or dishonesty in such sums and with such sureties as may be approved by the Board of Directors. The expense of any such bonds, except those maintained by the Managing Agent, shall be a Common Expense. In lieu of requiring surety bonds, the Board of Directors may require the signatures of two members of the Board of Directors on all checks issued by the Association.

#### **ARTICLE IV. ARTICLE IV OFFICERS**

**Section 4.01 Officers of the Association.** The principal officers of the Association shall be the President, Vice President, Secretary and Treasurer, all of whom shall be elected by the Board. The Directors may appoint an Assistant Treasurer and an Assistant Secretary and such other officers as in their judgment may be necessary. Any two or more offices may be held by the same person, except that the duties of the President and Secretary shall not be performed by the same person. Notwithstanding anything to the contrary contained herein or in the Governing Documents, the Initial Board need only have a President and Secretary, each of whom shall be elected by the Board, and such duties of the Treasurer, set forth in Section 4.06 below, as may be necessary, may be carried out by the President.

**Section 4.02 Election of Officers.** The officers of the Association shall be elected annually by the Board at the initial meeting of each new Board. Upon an affirmative vote of a majority of all members of the Board, any officer may be removed either with or without cause and his successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

**Section 4.03    The President.** The President shall be elected from among the Directors and shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board, shall have and discharge all the general powers and duties usually vested in the office of president or chief executive officer of an association or a stock Association organized under the laws of Indiana, including but not limited to the power to appoint committees from among the Owners as he may deem necessary to assist in the affairs of the Association and to perform such other duties as the Board may from time to time prescribe.

**Section 4.04    The Vice President.** The Vice President shall be elected from among the Directors and shall perform all duties incumbent upon the President during the absence or disability of the President. The Vice President shall also perform such other duties as these By-Laws may prescribe or as shall, from time to time, be imposed upon him by the Board or by the President.

**Section 4.05    The Secretary.** The Secretary shall be elected from among the Directors. The Secretary shall attend all meetings of the Association and of the Board and shall keep or cause to be kept a true and complete record of the proceedings of such meetings, shall perform all other duties as from time to time may be prescribed by the Board. The Secretary shall specifically see that all notices of the Association or the Board are duly given, mailed or delivered, in accordance with the provisions of these By-Laws.

**Section 4.06    The Treasurer.** The Board shall elect from among the Directors a Treasurer who shall maintain a correct and complete record of account showing accurately at all times the financial condition of the Association and who shall perform such other duties incident to the office of Treasurer. He shall be the legal custodian of all monies, notes, securities and other valuables which may from time to time come into possession of the Association. He shall immediately deposit all funds of the Association coming into his hands in some reliable bank or other depository to be designated by the Board and shall keep such bank account or accounts in the name of the Association. The Treasurer may permit the Managing Agent to handle and account for monies and other assets of the Association to the extent appropriate as part of its duties.

**Section 4.07    Assistant Officers.** The Board of Directors may, from time to time, designate and elect from among the members an Assistant Secretary and an Assistant Treasurer who shall have such powers and duties as the officers whom they are elected to assist shall delegate to them and such other powers and duties as these By-Laws or the Board of Directors may prescribe.

## **ARTICLE V. ASSESSMENTS**

**Section 5.01    Annual Accounting.** Annually, after the close of each fiscal year of the Association, the Board shall cause to be prepared and furnished to each member a financial statement prepared by the Board or an accounting group approved by the Board, which statement shall show all receipts and expenses received, incurred and paid during the preceding fiscal year.

**Section 5.02    Proposed Annual Budget.** Annually, at least sixty (60) days before the beginning of each fiscal year and the date of the annual meeting of the Association, the Board of Directors shall cause to be prepared a proposed annual budget for the next fiscal year estimating the total amount of the Common Expenses for the next fiscal year and shall furnish a copy of such proposed budget to each member at or prior to the time the notice of such annual meeting is mailed or delivered to such members. The annual budget shall be submitted to the members at the annual meeting of the Association for adoption, and, if so adopted, shall be the basis for the Assessments for the next fiscal year. At the annual meeting of the members, notwithstanding any other provisions in the Declaration, Articles or these By-Laws, the budget may be approved in whole or in part by a majority vote of the members

entitled to vote present either in person or by proxy; provided, however, that in no event shall the annual meeting of the members be adjourned until an annual budget is approved and adopted at such meeting, either the proposed annual budget or the proposed annual budget as amended. The annual budget, the Assessments and all sums assessed by the Association shall be established by using generally accepted accounting principles applied on a consistent basis.

The annual budget and Assessments may, in addition, be established to include the establishment and maintenance of an adequate replacement reserve fund for capital expenditures and replacement and repair of the Easements, which replacement reserve fund shall be used for those purposes and not for usual and ordinary repair expenses. If established, such replacement reserve fund for capital expenditures and replacement and repair of the Easements shall be maintained by the Association in a separate interest bearing account or accounts with one or more banks or savings and loan associations authorized to conduct business in Boone County, Indiana, selected from time to time by the Board and shall constitute at least ten percent (10%) of the Assessments.

The failure or delay of the Board of Directors to prepare a proposed annual budget and to furnish a copy thereof to the Owners shall not constitute a waiver or release in any manner of the obligations of the Owners to pay the Expenses as herein provided, whenever determined. Whenever, whether before or after the annual meeting of the Association, there is no annual budget approved by the Owners as herein provided for such current fiscal year, the Owners shall continue to pay Assessments based upon the last approved budget or, at the option of the Board, based upon one hundred ten percent (110%) of such last approved budget, as a temporary budget.

**Section 5.03 Base Assessments.** The annual budget as adopted by the members, shall, based on the estimated cash requirements for the Common Expenses in the current fiscal year as set forth in said budget contain a proposed assessment against each Unit as determined under Article 8 of the Declaration. Immediately following the adoption of the annual budget each member shall be given written notice of the assessment against his respective Unit; provided however, that any Base Assessments or Special Assessments may be applied to Units owned by Declarant or a Builder only with the written consent of Declarant which written consent shall not be inferred or implied by Declarant's execution and recordation of this Declaration. In the event the Base Assessment for a particular fiscal year is initially based upon a temporary budget, such Base Assessment shall be revised, within fifteen (15) days following adoption of the final annual budget by the members, to reflect the assessment against each Unit based upon such annual budget as finally adopted by the members. The aggregate amount of the Base Assessments shall be equal to the total amount of expenses provided and included in the final annual budget, including reserve funds as hereinabove provided. The Base Assessment against each Unit shall be paid to the Board of Directors within 30 days after receipt of notice thereof.

**Section 5.04 Special and Specific Assessments.** From time to time Common Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time and without the approval of the members, unless otherwise provided in these By-Laws or the Declaration, the Board of Directors shall have the full right, power and authority to make special assessments which, upon resolution of the Board, shall become a lien on each Unit, prorated in equal shares (herein called "Special Assessment"). Without limiting the generality of the foregoing provisions, Special Assessments may be made by the Board of Directors from time to time to pay for capital expenditures, to pay for the cost of any repair or reconstruction of damage caused by fire or other casualty or disaster to the extent insurance proceeds are insufficient therefor under the circumstances described in the Declaration. Furthermore, the Board of Directors shall have the full right, power and authority to make specific assessments which, upon resolution of the Board, shall become a lien on a specific Unit, consistent with the terms of the Declaration (herein called "Specific Assessment")

**Section 5.05 Failure of Owner to Pay Assessments**

(a) No Owner or member may exempt himself from paying Base Assessments, Special Assessments and Specific Assessments (collectively "Assessments"), or from contributing toward the Common Expenses or toward any other expense lawfully agreed upon, by waiver of the use or enjoyment of the Easements or by abandonment of the Unit belonging to him. Each Owner shall be personally liable for the payment of his portion of Assessments. Where the Owner constitutes more than one person, the liability of such persons shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Assessment when due, the lien for such Assessment on the Owner's Unit may be filed and foreclosed by the Board for and on behalf of the Association as a mortgage on real property or as otherwise provided by law. Upon the failure of an Owner to make payments of any Assessment, when due, the Board, in its discretion may accelerate the entire balance of the unpaid Assessments and declare the same immediately due and payable, notwithstanding any other provisions hereof to the contrary. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Assessment without foreclosing or waiving the lien securing the same. In any action to recover an Assessment whether by foreclosure or otherwise, the Board, for and on behalf of the Association, shall be entitled to recover from the Owner of the respective Unit costs and expenses of such action incurred, including but not limited to reasonable attorneys' fees, and interest from the date such Assessments were due until paid at the rate equal to the prime interest rate as set forth in the Wall Street Journal, from time to time, or if said newspaper is no longer in existence, then such rate stated in another reputable newspaper selected by the Board of Directors, during the unpaid period plus four percent (4%).

(b) Notwithstanding anything contained in this Section or elsewhere in the Governing Documents, any sale or transfer of a Unit to a mortgagee pursuant to a foreclosure on its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in the manner provided by law with respect to mortgage foreclosures, shall extinguish the lien of any unpaid installment of any Assessment as to such installments which became due prior to such sale, transfer or conveyance; provided, however, that the extinguishment of such lien shall not relieve the prior owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Unit or the purchaser at such foreclosure sale, or grantee in the event of conveyance in lieu thereof, from liability for any installments of Assessments thereafter becoming due or from the lien therefor. Such unpaid share of any Assessments the lien for which has been divested as aforesaid, until collection from the prior owner, shall be deemed to be a Common Expense, collectible from all members (including the party acquiring the subject Unit from which it arose).

**Section 5.06 Maintenance, Repairs and Replacements.** Maintenance, repairs, replacements and upkeep of the Area of Common Responsibility (except as such is the obligation of the individual members) shall be furnished by the Association, as a part of its duties, and the cost thereof shall constitute a part of the Common Expenses.

Each Owner (except as otherwise established as the Corporation's responsibility under the Declaration) shall be responsible for maintaining and keeping his Unit and structural improvements located on his Unit in a good, clean, neat, sanitary and well maintained condition and shall do such work thereon as is required to cause such Unit and structural improvements to be so maintained. The obligation to maintain a Unit shall keep such Unit maintained in the same manner as such Unit would be maintained if improvements existed thereon. Notwithstanding any obligation or duty of the Association to repair or maintain the Area of Common Responsibility if, due to the willful, intentional or negligent acts or omissions of an Owner or of a member of his family or of a guest, tenant, invitee or other occupant or visitor of such Owner, damage shall be caused, or if maintenance, repairs or replacements shall be required thereby, which would otherwise be a Common Expense, then such Owner shall pay for such damage and such maintenance, repairs and replacements, as may be determined by the Association,

unless such loss is covered by the Association's insurance with such policy having a waiver of subrogation clause. If not paid by such Owner upon demand by the Association, the cost of repairing such damage shall be added to and become a part of the assessment to which such Owner's Unit is subject.

If any Owner shall fail to maintain and keep his Unit and structural improvements located on his Unit in a good, clean and sanitary condition as determined by the Board of Directors, the Association may perform any work necessary to do so and charge the Owner thereof for such cost, which cost shall be added to and become a part of the Owner's assessment, and such cost shall be immediately due, and shall be secured by the Association's lien on the Owner's Unit.

So long as Pemberton is subject to the Declaration each Owner, by his acceptance of a deed to any Unit, irrevocably grants to the Association, its agents and employees, the right to enter upon, across and over the Unit owned by such Owner under such conditions as are reasonably necessary to effect the maintenance, cleaning, repair, landscaping or other work contemplated herein.

## **ARTICLE VI. COVENANTS AND RESTRICTIONS**

**Section 6.01 Covenants and Restrictions.** Article III of the Declaration creates and establishes the easements, covenants, and restrictions on the use and enjoyment of the Units, improvements, Area of Common Responsibility which shall be in addition to any other covenants or restrictions contained herein, in the Plat and are incorporated herein. All such covenants and restrictions are for the mutual benefit and protection of the present and future Owners and shall run with the land and inure to the benefit of and be enforceable by any Owner, or by the Association. Present or future members or the Association shall be entitled to injunctive relief against any violation or attempted violation of any such covenants and restrictions, and shall, in addition, be entitled to damages for any injuries or losses resulting from any violations thereof, but there shall be no right of reversion or forfeiture resulting from such violation.

Notwithstanding anything to the contrary contained in the Declaration or in the Articles or these By-laws, including, but not limited to, any covenants and restrictions set forth herein or otherwise, Declarant shall have, until the termination of the Declarant Control Period, the right to use and maintain any Units owned by Declarant (other than individual Units owned by persons other than Declarant), all of such number and size and at such locations as Declarant in its sole discretion may determine, as Declarant may deem advisable or necessary in its sole discretion to aid in the construction of improvements and the sale of Units or for the conducting of any business or activity attendant thereto, including, but not limited to, model dwelling units, storage areas, construction yards, signs, construction offices, sales offices, management offices and business offices. Declarant shall have the right to relocate any or all of the same from time to time as it desires. At no time shall any of such facilities so used or maintained by Declarant be or become part of the Easements, unless so designated by Declarant, and Declarant shall have the right to remove the same from Pemberton at any time.

**Section 6.02 Right of Entry.** All members and occupants of a Unit shall be deemed to have granted the right of entry thereto to the Managing Agent, if any, or any other person authorized by the Board in case of any emergency originating in or threatening his Unit, whether the Owner is present at the time or not.

**Section 6.03 Right of Board to Adopt Rules and Regulations.** The Board may promulgate such additional rules and regulations regarding the operating of Pemberton, including but not limited to the use of the Area of Common Responsibility, as it may deem necessary from time to time and such rules as are adopted may be amended by a vote of a majority of the Board, and the Board shall cause

copies of such rules and regulations and all amendments thereto to be delivered or mailed promptly to all members.

**Section 6.04** **Amendment to By-Laws.** Subject to any contrary, overriding or superseding provisions set forth herein or in the Declaration, these By-Laws may be amended in the same manner, and subject to the same limitations and requirements, as amendments to the Declaration, as set forth in Article 18 of the Declaration. Notwithstanding anything to the contrary contained herein or in the Declaration, there shall be no amendment of the Declaration or these By-Laws prior to the termination of the Declarant Control Period without the consent and approval of Declarant; provided, no such consent shall be required when more than seven (7) years have passed since the original recording of the Declaration.

## **ARTICLE VII. MISCELLANEOUS**

**Section 7.01** **Fiscal year.** The fiscal year of the Association shall be the calendar year.

**Section 7.02** **Personal Interests.** No member of the Association shall have or receive any earnings from the Association as a result of being an officer or director of the Association except a member may receive principal and interest on moneys loaned or advanced to the Association as provided in the Statute.

**Section 7.03** **Contracts, Checks, Notes, Etc.** All contracts and agreements entered into by the Association and all checks, drafts and bills of exchange and orders for the payment of money shall, in the conduct of the ordinary course of business of the Association, unless otherwise directed by the Board of Directors, or unless otherwise required by law, be signed by the President or in his absence the Treasurer. Any one of the documents heretofore mentioned in this section for use outside the ordinary course of business of the Association or any notes or bonds of the Association shall be executed by and require the signature of the President and Secretary.

## EXHIBIT C

### Initial Rules

The following restrictions shall apply to all of the Community until such time as they are amended, modified, repealed or limited by rules of the Association adopted pursuant to **Article 3** of the Declaration.

1. **General.** The Community shall be used only for residential, recreational, and related purposes (which may include, without limitation, an information center and/or a sales office for any real estate broker retained by the Declarant to assist in the sale of property described on **Exhibit A**, offices for any property manager retained by the Association or business offices for the Declarant or the Association) consistent with this Declaration and any Supplemental Declaration.

2. **Restricted Activities.** The following activities are prohibited within the Community:

(a) Any activity which violates local, state, or federal laws or regulations is prohibited within the Community; however, the Association shall have no obligation to take enforcement action in the event of a violation.

(b) Parking of commercial vehicles or equipment, mobile homes, recreational vehicles, golf carts, boats, and other watercraft, trailers, stored vehicles, or inoperable vehicles in places other than enclosed garages is prohibited; provided, construction, service, and delivery vehicles shall be exempt from this provision during daylight hours for any period of time reasonably necessary to provide service or to make a delivery to a Unit or the Common Area. In addition, Declarant and authorized Builders may park and use construction vehicles, trailers, and other equipment on a Unit or Common Area for purposes relating to the construction, development, marketing, and sale of property without complying with this subsection. For purposes of this **Section 2(b)** "commercial vehicles" shall include, without limitation, semi-trucks, semi-trucks and trailers, wreckers or tow trucks, hydraulic or mechanical lift vehicles (excludes handicap lifts), cranes, trucks or vans with chemical storage chemical storage for landscaping or pest treatment, oversized trucks greater than one ton of has more than six wheels, vans or buses for commercial which seats twelve or more passengers and any vehicle with prominent advertising (e.g., vehicles "wrapped" bumper to bumper or side to side with advertising, advertising painted on portions of the vehicle or other signage or decals). Notwithstanding the foregoing, the term "commercial vehicle" shall not include any government or emergency vehicle such as police, sheriff, marshall, fire, rescue or ambulance.

(c) Raising, breeding, or keeping animals, livestock, or poultry of any kind is prohibited, except that a reasonable number of dogs, cats, or other usual and common household pets may be permitted in a Unit. However, pets which are permitted to roam free, or, in the Board's sole discretion, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants of other Units shall be removed upon the Board's request. If the pet owner fails to honor such request, the Board may remove the pet. Dogs shall be kept on a leash or otherwise physically restrained or confined in a manner acceptable to the Board whenever outside the dwelling. Pets shall be registered, licensed, and inoculated as required by law.

(d) Pursuit of hobbies or other activities which tend to cause an unclean, unhealthy or untidy condition to exist outside of enclosed structures on the Unit.

(e) Any noxious or offensive activity which in the reasonable determination of the Board tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants of other Units.

(f) Use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be audible to occupants of other Units, except alarm devices used exclusively for security purposes.

(g) Use and discharge of firecrackers and other fireworks.

(h) Dumping of grass clippings, leaves or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, pond, or lake, or elsewhere within the Community, except that fertilizers may be applied to landscaping on Units provided care is taken to minimize runoff, and Declarant and Builders may dump and bury rocks and trees removed from a building site on such building site.

(i) No Owner, other than Declarant or a Builder authorized by Declarant, may obstruct or rechannel drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Declarant, authorized Builders, and the Association shall have such right; provided, the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Unit without the Owner's consent.

(j) Accumulation of rubbish, trash, or garbage except between regular garbage pickups, and then only in approved containers.

(k) Conversion of any carport or garage to finished space for use as an apartment or other integral part of the living area on any Unit is prohibited without prior approval pursuant to Article IV.

(l) Any construction, erection, placement, or modification of any thing, permanently or temporarily, on the outside portions of the Unit, whether such portion is improved or unimproved, is prohibited except in strict compliance with the provisions of Article IV of this Declaration, the Design Guidelines, and the Rules. This shall include, without limitation, signs, permanent basketball hoops, swing sets and similar sports and play equipment; clotheslines; garbage cans; woodpiles; swimming pools and other water features; docks, piers and similar structures; and hedges, walls, dog runs, animal pens, or fences of any kind; and satellite dishes and antennas. Children's playsets are permitted within the backyard of a Unit without being subject to the provisions of Article IV of the Declaration or the Design Guidelines. In addition, portable basketball hoops are not subject to the provisions of the Article IV of the Declaration or the Design Guidelines, however, Rules may be adopted regarding the use of portable basketball hoops (e.g. the Association could require the removal of portable basketball hoops that are broken or have fallen into disrepair).

(m) The display of signs of any kind on any Unit except as provided in **Section 3.5(b)** of the Declaration and as may be required by legal proceedings or by a governmental entity (e.g., a building permit or a foreclosure notice). Notwithstanding the above, Declarant and Builders authorized by Declarant may erect or display signs, banners, flags, balloons, or other things in connection with development, construction, marketing, and sales activities. In addition, the Board may erect or display signs that it deems reasonable and appropriate in its discretion, subject to the Community-Wide Standard.

(n) Sprinkler or irrigation systems or wells of any type which draw upon water from creeks, streams, wetlands, or other ground or surface waters within the Community, except that Declarant and the Association shall have the right to draw water from such sources.

(o) Discharge of firearms.

(p) Structures, equipment or other items on the exterior portions of a Unit which have become rusty, dilapidated or otherwise fallen into disrepair.

(q) Plants, animals, devices, or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Community, or any portion thereof, as determined in the Board's discretion.

(r) Metal, plastic, fabric or chain link fences of any kind.

(s) Accumulation or storage of combustible materials or debris on Units, except to the extent reasonably necessary during the construction of a dwelling on the Unit. This Rule shall not preclude the storage of reasonable amount of firewood on a Unit provided that it is stacked and stored in a safe manner and location.

(t) Keeping equipment, garbage cans, service yards, woodpiles or storage piles in view of neighboring Units and streets. All rubbish, trash or garbage shall be regularly removed from the premises, and shall not be allowed to accumulate thereon. Trash must be stored in enclosed containers, and any such container or garbage can left outside on any day other than collection shall not be allowed.

(u) Any structure of a temporary character, tent, shack, basement, garage, barn or other out-building for use as a residence either temporarily or permanently, or at any time is used for such purpose.

(v) The repair of inoperative motor vehicles or material alteration of motor vehicles unless entirely within a closed garage constructed in compliance with the terms of this Declaration.

(w) Any use of any Unit in violation of applicable zoning and subdivision control ordinances.

(x) Connection of any house footing drain or roof water to the sanitary sewers.

(y) Weeds, underbrush, other unsightly growths, refuse piles, or unsightly objects placed or suffered to remain on a Unit. Failure to comply shall warrant Declarant or the Association to cut weeds or clear the refuse from the Unit at the expense of the Owner, and there shall be a Specific Assessment against said Unit for the expense thereof, which lien shall be due and payable immediately. If such lien is not promptly paid, the Association may file suit and recover such amount together with reasonable attorney's fees and costs of collection in the manner provided in the Declaration.

(z) No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) feet and nine (9) feet above the street shall be placed or permitted to remain on any corner Unit within the triangular area formed by the street property lines and a line connecting points twenty-five (25) feet from the intersection of said street lines, or in the case of a

rounded property corner from the intersection of the street lines extended. The same sightline limitations shall apply to any Unit within ten (10) feet from the intersection of a street line with the edge of a driveway pavement or alley line. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines. No fences shall be permitted to be constructed between the front set back line and the street curb.

(aa) Crossing of another Unit or trespass upon any shoreline not within a Common Area owned by the Association, subject to the rights reserved unto Declarant, the Association, their employees, heirs, successors and assigns as set forth in the Declaration. No one shall do or permit any action or activity which could result in pollution of any lake, detention pond, or retention pond (jointly and severally, a "Lake"), diversion of water, elevation of any Lake level, earth disturbance resulting in silting or any other conduct which could result in an adverse effect upon water quality, drainage or proper Lake management except as provided in the Declaration. A Lake may not be used for swimming, ice skating, boating, or for any other purpose, except for drainage of the Community, unless expressly and specifically approved by the Board of Directors in writing and allowed by law. One or more Lakes may or may not exist in the Community, and the reference throughout this Declaration to Lakes is made in order to address Lakes, if any, which now exist or are later constructed in the Community. The installation in the Community of any Lake shall be within the sole discretion of Declarant, and under no circumstances shall Declarant be required or obligated to install any Lake. Only Declarant and the Association shall have the right to store items or develop recreational facilities upon any Common Area owned by the Association adjacent to a Lake. Any shoreline plantings that may be installed around any Lake are for the express purpose of: (1) providing an aesthetically pleasing and seasonally changing landscaped edge; (2) providing containment of waterfowl to the water surface; (3) buffering wave action to eliminate shoreline erosion; (4) improving water quality by filtering surface water runoff; and (4) reducing mosquito populations by increasing mosquito predator habitat. Mowing, spraying, trimming, or growth inhabiting activities in or around the shoreline planning are expressly prohibited.

(bb) Above ground swimming pools.

(cc) Any mailboxes installed upon Units inconsistent with the type, color and manufacture approved by the Reviewer.

(dd) If approved by the Reviewer, fences may be privately installed but must be constructed to professional levels of quality, design, material, composition, and color as determined by the Reviewer. Non-professionally installed fences may be inspected by the Reviewer after completion in order to ensure that the fence is of a professional quality, and final approval of such fence shall be deemed withheld until completion of this final review. All fences shall be kept in good repair by the Owner. In general, fences shall be erected within six inches (6") the property line of such Unit unless otherwise approved by the Reviewer. Generally, fences shall not be higher than four feet (4') from ground level. All fencing must be wrought iron, its aluminum equivalent or like material. No fence shall be constructed until its materials, design, and location are first approved by the Reviewer. Walls above grade must be constructed of natural stone, masonry, wood or shadow box fencing. All approvals of landscape screening materials, design, and location shall be on an individual basis. No fence shall be constructed within a drainage easement so as to obstruct the flow of water therein.

In instances where privacy screening is necessary or desirable, exceptions to the above material or height restrictions may be approved by the Reviewer on a case by case basis. Opaque

privacy screens up to six feet (6') in height shall be permitted around patio areas so long as they do not extend more than seventeen feet (17') from the back of the home on the Unit. For such privacy screens, the use of materials that will not fade or warp (such as vinyl or composite material) is encouraged, but the Reviewer may approve the use of wood material for a privacy screen so long as the Owner treats the wood every two years as necessary to maintain an attractive appearance.

The exact location, material, color and height of the fence and rendering or photograph thereof shall be submitted to the Reviewer for written approval at least thirty (30) days prior to proposed construction. If however, approval has not been received by applicant in writing within thirty (30) days after submitted, then said request shall be considered DENIED.

(ee) Replacement or repair of driveways with any material other than concrete unless otherwise approved by the Reviewer.

(ff) No trash, leaves, or other materials shall be burned upon a Unit unless the smoke therefrom would not blow upon any other Unit. Owners shall at all times be in compliance with all applicable legal requirements for outside burning. Nothing herein shall, however, prohibit the use and operation of properly constructed and maintained wood-burning fireplaces.

(gg) No antenna, satellite dish, or other device for the transmission or reception of radio, television, or satellite signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors and above ground, whether attached to a building or otherwise, on any part of the Community, including Units, without the written approval of the Reviewer, which approval shall not be unreasonably withheld; provided, however, that any such device may be installed and maintained on any Unit without the necessity of such written approval if: (a) it is not visible from the neighboring Units, streets or Common Area; or (b) the Owner, prior to installation, has received the written consent of the Owners of all Units who would have views of the device from their Units; or (c) the device is virtually indistinguishable from structures, devices, or improvements, such as heat pumps, air-conditioning units, barbecue grills, patio furniture, and garden equipment, which are not prohibited by these covenants or the rules and regulations of the Association, or (d) it is a satellite dish 24" or less in diameter and not affixed to the roof of a home; or (e) if prohibition of the installation, use, and maintenance of such device is specifically preempted and superseded by applicable governmental authority.

(hh) Except on Units on which there is maintained a sales office or model home by Declarant or a Builder, no exterior lights shall be erected or maintained between the building line and rear Unit line so as to shine or reflect directly upon another Unit.

(ii) Electric bug killers, "zappers", and other similar devices shall not be installed at a location or locations which result in the operation thereof becoming a nuisance or annoyance to other Owners, and shall be operated only when outside activities require the use thereof and not continuously.

(jj) Except on Units on which there is maintained a sales office or model home by Declarant or a Builder, no awnings or patio covers will be permitted anywhere in the Community unless approved in advance by the Reviewer. All approved awnings and patio covers must be kept in good repair and attractive in appearance.

(kk) Subject to inclement weather or other Acts of God, every home on a Unit shall be completed within twelve (12) months after the beginning of such construction or placement. Any

structure or building permitted to be constructed on any Unit by this Declaration, which may be all or in part destroyed by fire, wind, storm or any other reason, shall be allowed to remain in such state for no more than three (3) months from the time of such destruction or damage or, if approval of the applicable casualty insurance is pending, then within three (3) months after such approval is forthcoming, and following such time, the structure or building shall be rebuilt and restored to its previous condition, and all debris accumulated in connection therewith shall be removed within a reasonable time after any such occurrence.

(ll) No heat pumps, air conditioning units or gas meters will be installed in the front yard of a Unit.

(mm) Except for children's unfiltered splash pools, no above-ground swimming pools shall be permitted in the Community, even if they are inflatable. Only permanent, in-ground pools with professional construction, approved in writing in advance by the Reviewer, shall be permitted upon a Unit. All backyard pools should be landscaped and oriented to minimize the potential effect on neighboring properties. All pool fencing shall conform to requirements, rules and regulations, and ordinances of all Local Authority and any applicable state or federal rules and requirements and shall be of harmonious design and subject to the Reviewer approvals. All approved in-ground swimming pools must have an electrically powered, locking safety cover and/or an enclosure fence that complies with all state and local rules and regulations and shall be subject to any design guidelines and the advance written approval of the Reviewer. All equipment rooms, bath houses, or dressing rooms that are not part of the original construction of the Unit shall be subject to any design guidelines and the advance written approval of the Reviewer. Hot tubs must also be approved in advance by the Reviewer.

(nn) If storm doors are installed, they must be painted to match the exterior of the home. No unfinished aluminum doors or windows will be allowed.

(oo) Decorative street signs that do not conform to the applicable governmental standards nevertheless may be installed by Declarant during the Declarant Control Period. Any such decorative street signs shall be maintained by the Association, and shall be repaired or replaced by the Association if damaged in accordance with applicable rules and regulations of the applicable governmental entity. The Association assumes all liability in the installation, maintenance and repair of the decorative street signs and agrees to hold the applicable governmental entity harmless related thereto.

(pp) All above or below ground storage tanks, with the exception of portable gas storage tanks used solely in connection with gas grills for the purpose of grilling or cooking food, shall be and hereby are prohibited.

(qq) The roofing materials on all homes shall be similar in color and material, and shall be of a quality, style and composition acceptable to the Reviewer. No Owner shall be permitted to change or replace the shingles or other roofing materials without obtaining the prior written approval of the Reviewer unless the change or replacement is identical to what was originally in place.

(rr) No solar panels or wind turbines shall be permitted on any Unit unless approved in advance by the Reviewer.

(ss) No septic tank, absorption field, or any other on-site sewage disposal system (other than a lateral main connected to a sanitary sewage collection system operated by a public agency or public or private utility) shall be installed or maintained on any Unit.

(tt) Nothing contained in these Rules shall be construed or interpreted to restrict the activities of Declarant or a Builder in connection with the development of the Community and sale of Units. During the Declarant Control Period, Declarant or a Builder shall be entitled to engage in such activities and to construct, install, erect and maintain such facilities, upon any portion of the Community at any time owned or leased by Declarant or a Builder, as in the sole opinion of Declarant or a Builder may be reasonably required, or convenient or incidental to, the development of the Community and sale of the Units; such facilities may include, without limitation, storage areas, signs, parking areas, model residences, construction offices, sales offices and business offices.

(uu) The Board of Directors from time to time may promulgate further rules and regulations concerning the use of Units and the Common Area owned by the Association. A majority of those Owners voting at a meeting called for the purpose may rescind or modify any rule or regulation adopted by the Board of Directors. Copies of any new or amended rules and regulations shall be furnished by the Board to all Owners, at the Owner's last known address, prior to the time when the same shall become effective. The Association shall have current copies of the Declaration, Amenities Sharing Easement, Articles and By-Laws, and Rules concerning the Community as well as its own books, records and financial statements available for inspection by Owners or by holders, insurers and guarantors of first mortgages, that are secured by Units. These documents shall be available during normal business hours or under other reasonable circumstances.

**EXHIBIT D**

Intentionally Omitted

**EXHIBIT E****Hampshire Legal Description and Depiction**

(as may be amended from time to time by amendments to the Recorded documents for Hampshire)

**Phase One**

Part of the Northwest and Southwest Quarters of Section 28, Township 18 North, Range 2 East, Eagle Township, Boone County, Indiana, more particularly described as follows:

BEGINNING at the Northwest Corner of the Northwest Quarter of said Section 28, Township 18 North, Range 2 East; thence North 88 degrees 27 minutes 49 seconds East (Basis of Bearings: Indiana State Plane Coordinates, West Zone, NAD83) 652.23 feet along the North Line of said Northwest Quarter; thence South 01 degrees 32 minutes 11 seconds East 40.00 feet perpendicular to said North Line; thence North 88 degrees 27 minutes 49 seconds East 343.97 feet parallel with said North Line; thence South 01 degrees 28 minutes 49 seconds East 424.45 feet; thence North 88 degrees 31 minutes 11 seconds East 167.24 feet; thence South 72 degrees 45 minutes 11 seconds West 116.58 feet; thence South 17 degrees 14 minutes 49 seconds East 220.00 feet; thence South 72 degrees 45 minutes 11 seconds West 49.38 feet; thence South 17 degrees 14 minutes 49 seconds East 161.33 feet to the northern line of the one-hundred-fifty (150) foot-wide Transmission Line Easement ("Transmission Easement") (recorded as Deed Book 191, page 83 and Deed Book 191, page 164 in the Office of the Recorder of Boone County, Indiana); thence South 72 degrees 47 minutes 37 seconds West 287.42 feet along the northern line of said Transmission Easement; thence South 19 degrees 25 minutes 44 seconds West 337.98 feet to the point of curvature of a tangent curve concave to the southeast, said point lying North 70 degrees 34 minutes 16 seconds West 470.00 feet from the radius point thereof; thence southwesterly 34.94 feet along said curve to a point lying North 74 degrees 49 minutes 49 seconds West 470.00 feet from said radius point on the southern line of the one-hundred-fifty (150) foot-wide PSI Energy Easement ("PSI Easement") (recorded as Instrument Number 0508964 in said Recorder's Office); thence North 72 degrees 47 minutes 37 seconds East 1683.44 feet along the southern line of said PSI Easement to the eastern line of the 79.617-acre (measured) 79.550 acres (deed) tract of land granted to H & S, LLC ("H & S tract") (recorded as Instrument Number 201300001580 in said Recorder's Office) (the following four courses are along the boundary of said H & S tract); (one) South 42 degrees 32 minutes 33 seconds West 462.34 feet; (two) South 39 degrees 04 minutes 58 seconds West 194.37 feet; (three) South 84 degrees 06 minutes 41 seconds West 117.04 feet; (four) South 88 degrees 57 minutes 01 seconds West 207.89 feet; thence South 01 degrees 09 minutes 38 seconds East 1309.04 feet to the North Line of the Southwest Quarter of said Section 28; thence North 88 degrees 24 minutes 44 seconds East 103.94 feet along said North Line to the approximate eastern line of a fifty-foot-wide pipeline easement ("easement") (recorded as Deed Book 160, page 233 in said Recorder's Office) (the following five courses are along the approximate eastern line of said easement); (one) South 36 degrees 01 minutes 17 seconds East 29.35 feet; (two) South 36 degrees 43 minutes 04 seconds East 109.77 feet; (three) South 36 degrees 52 minutes 43 seconds East 105.18 feet; (four) South 36 degrees 42 minutes 03 seconds East 95.37 feet; (five) South 36 degrees 38 minutes 55 seconds East 32.02 feet; thence South 22 degrees 38 minutes 52 seconds West 206.75 feet to

the point of curvature of a tangent curve concave to the east, said point lying North 67 degrees 21 minutes 08 seconds West 330.00 feet from the radius point thereof; thence southerly 134.19 feet along said curve to its point of tangency, said point lying South 89 degrees 20 minutes 54 seconds West 330.00 feet from said radius point; thence South 00 degrees 39 minutes 06 seconds East 199.10 feet to the point of curvature of a tangent curve concave to the northwest, said point lying North 89 degrees 20 minutes 54 seconds East 270.00 feet from the radius point thereof; thence southerly and southwesterly 163.86 feet along said curve to a point lying South 55 degrees 52 minutes 47 seconds East 270.00 feet from said radius point; thence South 55 degrees 52 minutes 47 seconds East 60.00 feet to the point of curvature of a non-tangent curve concave to the northwest, said point lying South 55 degrees 52 minutes 47 seconds East 330.00 feet from the radius point thereof; thence southwesterly 86.60 feet along said curve to its point of tangency, said point lying South 40 degrees 50 minutes 35 seconds East 330.00 from said radius point; thence South 49 degrees 09 minutes 25 seconds West 75.78 feet to the point of curvature of a tangent curve concave to the east, said point lying North 40 degrees 50 minutes 35 seconds West 25.00 feet from the radius point thereof; thence southwesterly, southerly and southeasterly 39.27 feet along said curve to its point of tangency, said point lying South 49 degrees 09 minutes 25 seconds West 25.00 feet from said radius point; thence South 40 degrees 50 minutes 35 seconds East 134.85 feet to the approximate northwestern line of a one-hundred-foot-wide gas line easement ("gas easement") (recorded as Deed Book 155, page 527 and modified by Instrument Number 200700008726 in said Recorder's Office) (the following two courses are along the approximate northwestern line of said gas easement); (one) South 49 degrees 08 minutes 06 seconds West 175.00 feet; (two) South 49 degrees 10 minutes 30 seconds West 245.21 feet; thence South 69 degrees 50 minutes 20 seconds West 162.84 feet; thence South 22 degrees 21 minutes 41 seconds West 130.94 feet; thence South 49 degrees 17 minutes 58 seconds West 283.07 feet; thence South 49 degrees 35 minutes 13 seconds West 166.30 feet; thence South 19 degrees 21 minutes 01 seconds West 47.69 feet; thence South 70 degrees 38 minutes 59 seconds East 138.15 feet; thence South 19 degrees 21 minutes 01 seconds West 55.00 feet to the centerline of Zionsville (Whitestown) Road; thence North 70 degrees 38 minutes 59 seconds West 547.13 feet along said centerline; thence North 70 degrees 46 minutes 41 seconds West 63.04 feet along said centerline; thence North 19 degrees 13 minutes 19 seconds East 103.71 feet perpendicular to said centerline; thence North 49 degrees 12 minutes 37 seconds East 502.71 feet; thence North 86 degrees 20 minutes 59 seconds East 29.71 feet; thence North 05 degrees 59 minutes 37 seconds East 203.92 feet; thence South 84 degrees 00 minutes 23 seconds East 35.85 feet; thence North 00 degrees 39 minutes 06 seconds West 205.59 feet; thence North 89 degrees 31 minutes 13 seconds East 458.74 feet; thence North 22 degrees 24 minutes 55 seconds West 116.26 feet; thence North 14 degrees 55 minutes 32 seconds West 116.26 feet; thence North 07 degrees 26 minutes 10 seconds West 116.26 feet; thence North 01 degrees 22 minutes 32 seconds West 106.99 feet; thence North 01 degrees 08 minutes 12 seconds West 20.00 feet; thence North 00 degrees 53 minutes 52 seconds West 96.43 feet; thence North 06 degrees 52 minutes 59 seconds West 92.52 feet; thence North 12 degrees 57 minutes 23 seconds West 95.48 feet; thence North 14 degrees 07 minutes 00 seconds West 100.00 feet; thence North 12 degrees 12 minutes 17 seconds West 120.22 feet; thence North 11 degrees 17 minutes 31 seconds West 66.53 feet; thence North 01 degrees 12 minutes 40 seconds West 129.03 feet; thence North 88 degrees 47 minutes 20 seconds East 54.48 feet; thence North 01 degrees 12 minutes 40 seconds West 160.00 feet; thence North 88 degrees 47 minutes 20 seconds East 97.06 feet to the point of curvature of a non-tangent curve concave to the southwest, said point lying

North 74 degrees 51 minutes 31 seconds East 270.00 feet from the radius point thereof; thence northerly and northwesterly 216.54 feet along said curve to a point lying North 28 degrees 54 minutes 27 seconds East 270.00 feet from said radius point; thence North 28 degrees 54 minutes 27 seconds East 60.00 feet to the point of curvature of a non-tangent curve concave to the north, said point lying South 28 degrees 54 minutes 27 seconds West 25.00 feet from the radius point thereof; thence easterly, northeasterly and northerly 35.88 feet along said curve to its point of tangency, said point lying South 53 degrees 19 minutes 20 seconds East 25.00 feet from said radius point; thence North 36 degrees 40 minutes 40 seconds East 14.02 feet to the point of curvature of a tangent curve concave to the northwest, said point lying South 53 degrees 19 minutes 20 seconds East 300.00 feet from the radius point thereof; thence northeasterly 1.80 feet along said curve to a point lying South 53 degrees 39 minutes 56 seconds East 300.00 feet from said radius point, said point lying on the approximate southwestern line of a fifty-foot-wide pipe line easement ("pipe line easement") (recorded as Deed Book 160, page 231 in said Recorder's Office) (the following ten courses are along the approximate western line of said pipe line easement); (one) North 36 degrees 49 minutes 09 seconds West 64.05 feet; (two) North 36 degrees 40 minutes 59 seconds West 88.34 feet; (three) North 36 degrees 33 minutes 17 seconds West 42.89 feet; (four) North 36 degrees 29 minutes 08 seconds West 88.31 feet; (five) North 36 degrees 37 minutes 15 seconds West 82.11 feet; (six) North 36 degrees 32 minutes 00 seconds West 83.92 feet; (seven) North 36 degrees 43 minutes 31 seconds West 81.24 feet; (eight) North 36 degrees 58 minutes 27 seconds West 72.74 feet; (nine) North 36 degrees 32 minutes 23 seconds West 81.86 feet; (ten) North 36 degrees 39 minutes 01 seconds West 20.41 feet; thence South 62 degrees 11 minutes 22 seconds West 215.42 feet; thence South 89 degrees 34 minutes 13 seconds West 234.96 feet to the eastern line of the tract of land granted to Julian and Darcie Stansinic ("Stansinic tract") (recorded as Instrument Number 200500512929 in said Recorder's Office); thence North 00 degrees 22 minutes 46 seconds West 305.19 feet along the eastern line of said Stansinic tract and the eastern line the tract of land granted to David H. Meyer ("Meyer tract") (recorded as Instrument Number 9605823 in the Office of the Recorder of Boone County, Indiana) to the northeastern corner of said Meyer tract; thence South 89 degrees 44 minutes 48 seconds West 460.00 feet along the northern line of said Meyer tract to the northwestern corner thereof, said corner lying on the West Line of the Northwest Quarter of said Section 28; thence North 00 degrees 22 minutes 46 seconds West 1385.25 feet along said West Line to the POINT OF BEGINNING, containing 81.526 acres, more or less.

#### **Phase Two North**

Part of the Southwest Quarter of the Southwest Quarter of Section 21 and part of the North Half of the Northwest Quarter of Section 28, all in Township 18 North, Range 2 East of the Second Principal Meridian, Eagle Township, Boone County, Indiana, more particularly described as follows:

Commencing at the Southwest Corner of the Southwest Quarter of said Section 21, Township 18 North, Range 2 East; thence North 88 degrees 27 minutes 49 seconds East (Basis of Bearings: Indiana State Plane Coordinates, West Zone, NAD83) 237.83 feet (236 feet – Deed) along the South Line of said Southwest Quarter to the POINT OF BEGINNING of this description, being the southeastern corner of the 1.64-acre tract of land granted to Alan A. & Erin M. Vonderheide (recorded as Instrument Number 201000006716 in the Office of the Recorder) (the following two (2) courses are along the boundary of said Vonderheide tract); (one) North 00 degrees 46 minutes 50 seconds West 297.36 feet (296 feet –

Deed); (two) North 87 degrees 49 minutes 30 seconds West 237.59 feet (236.15 feet – Deed) to the West Line of said Southwest Quarter; thence North 00 degrees 41 minutes 01 seconds West 563.99 feet along said West Line to the northeastern right-of-way line of the abandoned C. C. C. & St. Louis Railroad; thence South 64 degrees 27 minutes 15 seconds East 1490.23 feet to the western line of the 10.000-acre tract of land granted to Darrin A. and Martina M. Goodwin (recorded as Instrument Number 97118606 in said Recorder's Office); thence South 00 degrees 33 minutes 29 seconds East 198.21 feet (198.19 feet – Deed) along said western line to the North Line of said Northwest Quarter; thence North 88 degrees 27 minutes 49 seconds East 114.88 feet along said North Line to the northwestern corner of the 3.038-acre tract of land granted to Zionsville Community Schools Building Corporation ("School tract") (recorded as Instrument Number 200800007532 in said Recorder's Office) (the following seven (7) courses are along the boundary of said School tract); (one) South 01 degrees 32 minutes 11 seconds East 78.88 feet; (two) South 36 degrees 17 minutes 35 seconds East 98.59 feet; (three) South 54 degrees 41 minutes 11 seconds East 70.24 feet; (four) North 88 degrees 27 minutes 49 seconds East 244.27 feet; (five) South 64 degrees 31 minutes 27 seconds East 609.84 feet; (six) South 36 degrees 14 minutes 35 seconds East 138.66 feet; (seven) South 23 degrees 05 minutes 54 seconds East 125.21 feet (125.36 feet – Deed) to an eastern line of the 79.550-acre tract of land granted to H & S, LLC ("Grantor") (recorded as Instrument Number 201300001580 in said Recorder's Office) (the following two (2) courses are along the boundary of said Grantor); (one) South 47 degrees 53 minutes 15 seconds West 180.92 feet (176.89 feet – Deed); (two) South 42 degrees 32 minutes 33 seconds West 29.42 feet to the eastern tip of the 81.526-acre tract of land granted to Beazer Homes Indiana LLP ("Takedown One") (recorded as Instrument Number 201500009335 in said Recorder's Office) (all of the remaining courses are along the boundary of said Takedown One); South 72 degrees 47 minutes 37 seconds West 1683.44 feet to the point of curvature of a non-tangent curve concave to the southeast, said point lying North 74 degrees 49 minutes 49 seconds West 470.00 feet from the radius point thereof; northerly 34.94 feet along said curve to its point of tangency, said point lying North 70 degrees 34 minutes 16 seconds West 470.00 feet from said radius point; North 19 degrees 25 minutes 44 seconds East 337.98 feet; North 72 degrees 47 minutes 37 seconds East 287.42 feet; North 17 degrees 14 minutes 49 seconds West 161.33 feet; North 72 degrees 45 minutes 11 seconds East 49.38 feet; North 17 degrees 14 minutes 49 seconds West 220.00 feet; North 72 degrees 45 minutes 11 seconds East 116.58 feet; South 88 degrees 31 minutes 11 seconds West 167.24 feet; North 01 degrees 28 minutes 49 seconds West 424.45 feet to a point lying 40.00 feet (measured southerly in a perpendicular direction) from the North Line of said Northwest Quarter; South 88 degrees 27 minutes 49 seconds West 343.97 feet parallel with said North Line; North 01 degrees 32 minutes 11 seconds West 40.00 feet perpendicular to said North Line to a point thereon; South 88 degrees 27 minutes 49 seconds West 414.41 feet along said North Line to the POINT OF BEGINNING, containing 42.711 acres, more or less.

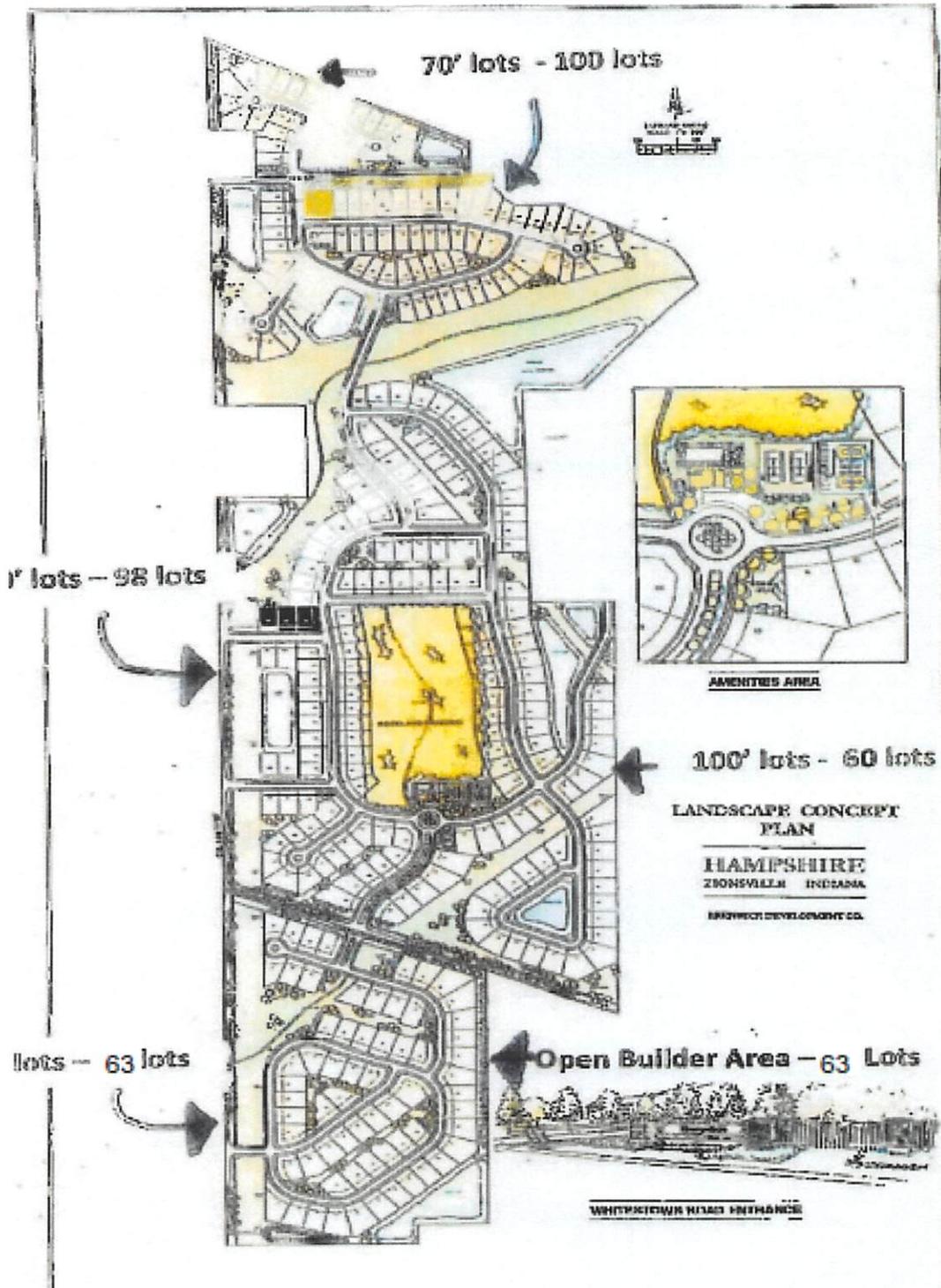
#### **Phase Two South**

Part of the Northwest and Southwest Quarters of Section 28, all in Township 18 North, Range 2 East of the Second Principal Meridian, Eagle Township, Boone County, Indiana, more particularly described as follows:

Commencing at the Southwest Corner of the Northwest Quarter of said Section 28, Township 18 North, Range 2 East; thence North 00 degrees 22 minutes 46 seconds West (Basis of Bearings: Indiana State

Plane Coordinates, West Zone, NAD83) 8.83 feet along the West Line of said Northwest Quarter to the POINT OF BEGINNING of this description; thence continue North 00 degrees 22 minutes 46 seconds West 676.43 feet along said West Line to the southwestern corner of the tract of land granted to Julian and Darcie Stansinic ("Stansinic tract") (recorded as Instrument Number 200500512929 in said Recorder's Office); thence North 89 degrees 44 minutes 48 seconds East 460.00 feet along the southern line of said Stansinic tract to the southeastern corner thereof; thence North 00 degrees 22 minutes 46 seconds West 270.31 feet along the eastern line of said Stansinic tract to a southern line of the 81.256-acre tract of land granted to Beazer Homes Indiana LLP ("Takedown One") (recorded as Instrument Number 201500009335 in said Recorder's Office) (the following twenty-one (21) courses are along the boundary of said Takedown One); (1) North 89 degrees 34 minutes 13 seconds East 234.96 feet; (2) North 62 degrees 11 minutes 22 seconds East 215.42 feet; (3) South 36 degrees 39 minutes 01 seconds East 20.41 feet; (4) South 36 degrees 32 minutes 23 seconds East 81.86 feet; (5) South 36 degrees 58 minutes 27 seconds East 72.74 feet; (6) South 36 degrees 43 minutes 31 seconds East 81.24 feet; (7) South 36 degrees 32 minutes 00 seconds East 83.92 feet; (8) South 36 degrees 37 minutes 15 seconds East 82.11 feet; (9) South 36 degrees 29 minutes 08 seconds East 88.31 feet; (10) South 36 degrees 33 minutes 17 seconds East 42.89 feet; (11) South 36 degrees 40 minutes 59 seconds East 88.34 feet; (12) South 36 degrees 49 minutes 09 seconds East 64.05 feet to the point of curvature of a non-tangent curve concave to the northwest, said point lying South 53 degrees 39 minutes 56 seconds East 300.00 feet from the radius point thereof; (13) southwesterly 1.80 feet along said curve to its point of tangency, said point lying South 53 degrees 19 minutes 20 seconds East 300.00 feet from said radius point; (14) South 36 degrees 40 minutes 40 seconds West 14.02 feet to the point of curvature of a tangent curve concave to the north, said point lying South 53 degrees 19 minutes 20 seconds East 25.00 feet from the radius point thereof; (15) southwesterly, westerly and northwesterly 35.88 feet along said curve to a point lying South 28 degrees 54 minutes 27 seconds West 25.00 feet from said radius point; (16) South 28 degrees 54 minutes 27 seconds West 60.00 feet to the point of curvature of a non-tangent curve concave to the southwest, said point lying North 28 degrees 54 minutes 27 seconds East 270.00 feet from the radius point thereof; (17) southeasterly 216.54 feet along said curve to a point lying North 74 degrees 51 minutes 31 seconds East 270.00 feet from said radius point; (18) South 88 degrees 47 minutes 20 seconds West 97.06 feet; (19) South 01 degrees 12 minutes 40 seconds East 160.00 feet; (20) South 88 degrees 47 minutes 20 seconds West 54.48 feet; (21) South 01 degrees 12 minutes 40 seconds East 60.00 feet; thence South 88 degrees 48 minutes 08 seconds West 615.48 feet to the point of curvature of a tangent curve concave to the southeast, said point lying North 01 degrees 11 minutes 52 seconds West 25.00 feet from the radius point thereof; thence westerly, southwesterly and southerly 40.03 feet along said curve to a point lying South 87 degrees 03 minutes 10 seconds West 25.00 feet from said radius point; thence South 87 degrees 03 minutes 10 seconds West 60.00 feet to the point of curvature of a non-tangent curve concave to the east, said point lying South 87 degrees 03 minutes 10 seconds West 530.00 feet from the radius point thereof; thence northerly 25.01 feet along said curve to a point lying South 89 degrees 45 minutes 25 seconds West 530.00 feet from said radius point; thence South 89 degrees 17 minutes 18 seconds West 512.91 feet to the POINT OF BEGINNING, containing 23.433 acres, more or less.

Hampshire initially contains the property north of the "Open Builder Area" in the depiction below. This depiction is for illustrative purposes only, and is not intended to be binding for any purposes hereunder.



**EXHIBIT F**

**ARCHITECTURAL STANDARDS**

**(70' LOTS)**

**Building Design:**

The architectural design of all improvements to be located on the lot is subject to prior approval of the NCC, for new home construction, and the CMRB (known as the "ARB" in this Exhibit F), for a Remodel.

**Building Standards**

1) **Lot Width:**

Minimum of 70 feet at front building line

2) **Minimum Square Footage:**

One-story home: 2000

Two-story home: 2200

3) **Side Yard Setbacks:**

5 feet minimum

10 feet minimum between residences

Aggregate 10 feet

4) **Roofs:**

Roofs will be pitched from a range of 6:12 to 14:12.

Minimum Front to back: 6/12

Minimum Front gables: 8/12

Ancillary roofs such as porches, bays, walkways may be less than the minimum requirement.

Roofs should be clad in wood shingles, slate, diamond tab, dimensional or other quality asphalt shingles or metal.

All attic vents, turbines, flues and other roof penetrations, other than ridge vents, must be to the rear or side of the home to reduce visibility from the street and shall be painted to match the color of the roof or flat black except those made of metal which may be left natural.

5) **Roof Overhangs:**

Minimum framed front and rear overhang: 12 inches

Note: Where masonry meets an overhang, the overhang shall measure a minimum of six (6) inches.

6) **Roof Ridgeline:**

- A. A one-story home shall have a minimum of three (3) ridgelines.
- B. A two-story home shall have a minimum of three (3) ridgelines.
- C. Ridgelines shall only be considered if they are horizontal ridges which form the peak of a pitched area. Roof systems with ridgelines over covered and enclosed porches shall count.

7) **Corner Breaks:**

- A. A one-story home shall have a minimum of three (3) corner breaks on the front facade and two (2) corner breaks on the rear façade.
- B. A two-story home shall have a minimum of three (3) corner breaks on the front facade and two (2) corner breaks on the rear façade.
- C. Outer corners along a covered porch and outer corners along the facade that are outside of a covered porch shall count towards this requirement. First and second floor corners not aligned or in plane with one another shall count separately.

8) **Foundations:**

All home foundations shall be on slab, partial basement or full basement. No full crawl space foundations shall be permitted.

9) **Windows:**

- A. A one-story home shall have a minimum of two (2) windows on the front façade and four (4) windows on the rear façade.
- B. A two-story home shall have a minimum of four (4) windows on the front façade and four (4) windows on the rear façade.

Windows within a screened porch shall count towards this requirement.

Windows shall be wood, aluminum clad, vinyl or vinyl clad. Glass shall be clear and free of color except where frosted, hammered, glass block or textured glass are used on the sides and rear of home.

10) **Garages:**

All homes must have a minimum of two-car attached garage. Garage doors will be architecturally treated.

11) **Masonry Requirements:**

- A, Acceptable masonry materials include the following: brick, limestone, natural stone, cultured stone and stucco finished composite panel board.
- B, All homes shall have a minimum of fifty percent (50%) masonry on the front façade. Homes with a historical architectural style<sup>1</sup> that lends itself to the use of less masonry do not need to meet the fifty percent (50%) requirement on the front façade.

12) **Siding Requirements:**

- A. Acceptable siding materials include the following: wood, LP siding, fiber cement siding (e.g. HardiePlank) or similar composite materials.
- B. Aluminum and vinyl siding are not permitted.

13) **Landscaping:**

A. Plantings:

- 1) 15 shrubs
- 2) 3 yard trees (two shade trees/one ornamental tree)  
(2" minimum caliper outside planting bed)
- 3) 1 shade tree (2" minimum caliper) to be planted between the curb and sidewalk, which shall be planted on average every 60' on center (easements shall be taken into account)

B. Lawns:

- 1) All front yards shall be sodded. All side yards and rear yards must be seed with straw at a minimum and no irrigation is required.

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<sup>1</sup> Historical architectural styles are styles such as those identified in Exhibit B. The NCC, for new home construction, and the ARB, for Remodels, shall have the authority to determine whether or not a specific house plan qualifies as a historical architectural style.

- 2) Corner lot homes which have two elevations substantially parallel to a public street shall have lawns comprised of sod, along those two elevations (with or without irrigation). All other side yards and rear yards must be seeded with straw a minimum and no irrigation is required.
- 3) Corner lot homes which are set at an angle to the public streets, lacking an elevation substantially parallel to either abutting public street, shall have a front lawn comprised of sod (with or without irrigation), All other side and rear yards must be seeded with straw at minimum and no irrigation is required.

14) **Miscellaneous:**

- A. A not-for-profit Pemberton Homeowners Association shall be incorporated and related Declaration of Covenants, Conditions and Restrictions and By-Laws shall be created prior to platting any section of Pemberton.
- B. All driveways shall be concrete.
- C. Public sidewalks are required on all lots.
- D. Uniform mailboxes shall be required.
- E. Dumpsters and or trash bins are required on all lots once framing begins and shall be removed prior to receiving a Certificate of Occupancy.

15) **Facade Variety:**

All homes shall comply with the provisions set forth in **Exhibit A** the Pemberton Façade Variety Code.

**ARCHITECTURAL STANDARDS**

**(90' LOTS)**

1) **Lot Width:**

Minimum of 90 feet at front building line

2) **Minimum Square Footage:**

One-story home: 2200

Two-story home: 2600

3) **Side Yard Setbacks:**

5 feet minimum

10 feet minimum between residences

4) **Roofs:**

Roofs will be pitched from a range of 6:12 to 14:12,

Minimum Front to back: 6/12

Minimum Front gables: 8/12

Ancillary roofs such as porches, bays or walkways may be less than the minimum requirement.

Roofs should be clad in wood shingles, slate, diamond tab, dimensional or other quality asphalt shingles or metal.

All attic vents, turbines, flues and other roof penetrations, other than ridge vents, must be to the rear or side of the home to reduce visibility from the street and shall be painted to match the color of the roof or flat black except those made of metal which may be left natural.

5) **Roof Overhangs:**

Minimum framed front and rear overhang: 12 inches

Note: Where masonry meets an overhang, the overhang shall measure a minimum of six (6) inches.

**6) Roof Ridgeline:**

- A. A one-story home shall have a minimum of three (3) ridgelines,
- B. A two-story home shall have a minimum of four (4) ridgelines.
- C. Ridgelines shall only be considered if they are horizontal ridges which form the peak of a pitched area. Roof systems with ridgelines over covered and enclosed porches shall count.

**7) Corner Breaks:**

- A. A one-story home shall have a minimum of three (3) corner breaks on the front façade and three (3) corner breaks on the rear façade,
- B. A two-story home shall have a minimum of four (4) corner breaks on the front façade and three (3) corner breaks on the rear façade.
- C. Outer corners along a covered porch and outer corners along the façade that are outside of a covered porch shall count towards this requirement. First and second floor corners not aligned or in plane with one another shall count separately.

**8) Foundations:**

All home foundations shall be on slab, partial basement or full basement. No full crawl space foundations shall be permitted.

**9) Windows:**

- C. A one-story home shall have a minimum of five (5) windows on the front façade and five (5) windows on the rear façade.
- D. A two-story home shall have a minimum of six (6) windows on the front façade and six (6) windows on the rear façade.

Windows within a screened porch shall count towards this requirement.

Windows shall be wood, aluminum clad, vinyl or vinyl clad. Glass shall be clear and free of color except where frosted, hammered, glass block or textured glass are used on the sides and rear of home.

**10) Garages:**

All homes shall have a minimum three-car attached garage. Garage doors will be architecturally treated.

**11) Masonry Requirements:**

- A. Acceptable masonry materials include the following: brick, limestone, natural stone, cultured stone and stucco finished composite panel board,
- B. All homes shall have a minimum of fifty percent (50%) masonry on the front façade. Homes with a historical architectural style<sup>1</sup> that lends itself to the use of less masonry do not need to meet the fifty percent (50%) requirement on the front façade.

**12) Siding Requirements:**

- C. Acceptable siding materials include the following: wood, LP siding, fiber cement siding (e.g. HardiePlank) or similar composite materials.
- D. Aluminum and vinyl siding are not permitted.

**13) Landscaping:**

**A. Front landscaping:**

- 1) 25 shrubs
- 2) 3 yard trees (two shade trees/one ornamental tree)  
(2" minimum caliper outside planting bed)
- 3) 1 shade tree (2" minimum caliper) to be planted between the curb and sidewalk, which shall be planted on average every 60' on center (easements shall be taken into account)

**B. Lawns:**

- 1) All front yards shall be sodded. All side yards and rear yards must be seed with straw at a minimum and no irrigation is required.
- 2) Corner lot homes which have two elevations substantially parallel to a public street shall have lawns comprised of sod, along those two elevations (with or without irrigation). All other side yards and rear yards must be seeded with straw a minimum and no irrigation is required.

<sup>1</sup> Historical architectural styles are styles such as those identified in Exhibit B. The NCC, for new home construction, and the ARB, for Remodels, shall have the authority to determine whether or not a specific house plan qualifies as a historical architectural style.

- 3) Corner lot homes which are set at an angle to the public streets, lacking an elevation substantially parallel to either abutting public street, shall have a front lawn comprised of sod (with or without irrigation). All other side and rear yards must be seeded with straw at minimum and no irrigation is required.

14) **Miscellaneous:**

- A. A not-for-profit Pemberton Homeowners Association shall be incorporated and related Declaration of Covenants, Conditions and Restrictions and By-Laws shall be created prior to platting any section of Pemberton.
- B. All driveways shall be concrete.
- C. Public sidewalks are required on all lots.
- D. Uniform mailboxes shall be required.
- E. Dumpsters and or trash bins are required on all lots once framing begins and shall be removed prior to receiving a Certificate of Occupancy.

15) **Façade Variety:**

All homes shall comply with the provisions set forth in Exhibit A the Pemberton Façade Variety Code.

**ARCHITECTURAL STANDARDS**

**(100' LOTS)**

**SOUTH OF WHITESTOWN ROAD**

**(For Standards North of Whitestown Road, see Instrument #201500007024)**

**1) Lot Width:**

Minimum of 100 feet at front building line

**2) Minimum Square Footage:**

One-story home: 2600

Two-story home: 3100\*

(\* 1200 minimum feet on 1" Floor

**3) Side Yard Setbacks:**

5 feet minimum

10 feet minimum between residences

**4) Roofs:**

Roofs will be pitched from a range of 6:12 to 14:12.

Minimum Front to back: 8/12

Minimum Front gables: 10/12

Ancillary roofs such as porches, bays or walkways may be less than the minimum requirement. Additionally, the NCC or ARB, as applicable, may at its sole and absolute discretion grant waivers to this requirement based upon the architectural design of the home, such styles would include but not be limited to craftsman, prairie cottage and four square.

Roofs should be clad in wood shingles, slate, diamond tab, dimensional or other quality asphalt shingles or metal.

All attic vents, turbines, flues and other roof penetrations, other than ridge vents, must be to the rear or side of the home to reduce visibility from the street and shall be painted to match the color of the roof or flat black except those made of metal which may be left natural.

5) **Roof Overhangs:**

Minimum framed front and rear overhang: 12 inches

Note: Where masonry meets an overhang, the overhang shall measure a minimum of six (6) inches.

6) **Roof Ridgeline:**

- D. A one-story home shall have a minimum of four (4) ridgelines.
- E. A two-story home shall have a minimum of five (5) ridgelines.
- F. Ridgelines shall only be considered if they are horizontal ridges which form the peak of a pitched area. Roof systems with ridgelines over covered and enclosed porches shall count.

7) **Corner Breaks:**

- D. A one-story home shall have a minimum of four (4) corner breaks on the front façade and four (4) corner breaks on the rear façade.
- E. A two-story home shall have a minimum of five (5) corner breaks on the front façade and four (4) corner breaks on the rear façade.
- F. Outer corners along a covered porch and outer corners along the façade that are outside of a covered porch shall count towards this requirement. First and second floor corners not aligned or in plane with one another shall count separately.

8) **Foundations:**

All home foundations shall be on slab, partial basement or full basement. No full crawl space foundations shall be permitted.

9) **Windows:**

- C. A one-story home shall have a minimum of six (6) windows on the front façade and six (6) windows on the rear façade.
- D. A two-story home shall have a minimum of seven (7) windows on the front façade and seven (7) windows on the rear façade.

Windows within a screened porch shall count towards this requirement.

Windows shall be wood, aluminum clad, vinyl or vinyl clad. Glass shall be clear and free of color except where frosted, hammered, glass block or textured glass are used on the sides and rear of home.

**10) Garages:**

All homes shall have a minimum three-car attached garage. Garage doors will be architecturally treated. Frontload only style garages are not allowed. Although, split load and carriage style three car garages are acceptable,

**11) Masonry Requirements:**

- C. Acceptable masonry materials include the following: brick, limestone, natural stone, cultured stone and stucco finished composite panel board.
- D. All homes shall have a minimum of fifty percent (50%) masonry on the front façade, Homes with a historical architectural style<sup>1</sup> that lends itself to the use of less masonry do not need to meet the fifty percent (50%) requirement on the front façade.

**12) Siding Requirements:**

- C. Acceptable siding materials include the following: wood, LP siding, fiber cement siding (e.g. HardiePlank) or similar composite materials.
- D. Aluminum and vinyl siding are not permitted.

**13) Landscaping:****C. Front landscaping:**

- 4) 30 shrubs
- 5) 3 yard trees (two shade trees/one ornamental tree)  
(2" minimum caliper outside planting bed)
- 6) 1 shade tree (2" minimum caliper) to be planted between the curb and sidewalk, which shall be planted on average every 60' on center (easements shall be taken into account)

**D. Lawns:**

- 4) All front yards shall be sodded. All side yards and rear yards must be seed with straw at a minimum and no irrigation is required.
- 5) Corner lot homes which have two elevations substantially parallel to a public street shall have lawns comprised of sod, along those two elevations (with or without irrigation). All other side yards and rear yards must be seeded with straw a minimum and no irrigation is required.

<sup>1</sup> Historical architectural styles are styles such as those identified in Exhibit B. The NCC, for new home construction, and the ARB, for Remodels, shall have the authority to determine whether or not a specific house plan qualifies as a historical architectural style.

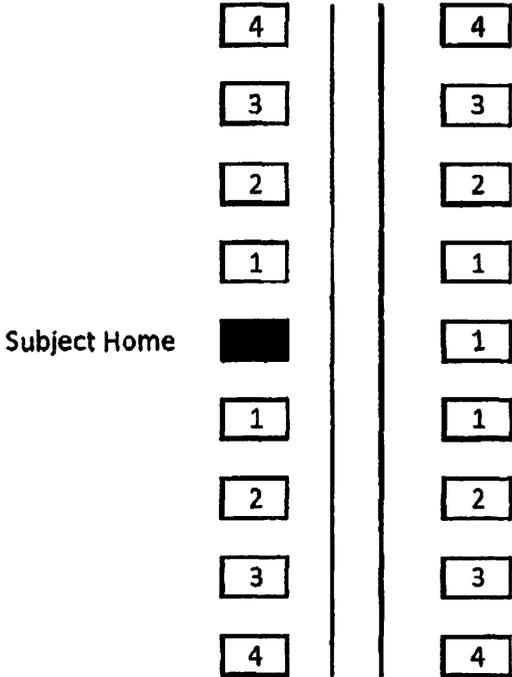
- 6) Corner lot homes which are set at an angle to the public streets, lacking an elevation substantially parallel to either abutting public street, shall have a front lawn comprised of sod (with or without irrigation). All other side and rear yards must be seeded with straw at minimum and no irrigation is required.

14) **Miscellaneous:**

- F. A not-for-profit Pemberton Homeowners Association shall be incorporated and related Declaration of Covenants, Conditions and Restrictions and By-Laws shall be created prior to platting any section of Pemberton.
- G. All driveways shall be concrete.
- H. Public sidewalks are required on all lots.
- I. Uniform mailboxes shall be required.
- J. Dumpsters and or trash bins are required on all lots once framing begins and shall be removed prior to receiving a Certificate of Occupancy.

EXHIBIT A  
(to Exhibit F)

PEMBERTON FAÇADE VARIETY CODE



- 1 Home cannot be of the same elevation of the same plan as the Subject home. Must be a different color package.
- 2 Home cannot be of the same elevation of the same plan as the Subject home. Cannot be the identical color package as the Subject home but may have the same brick.
- 3 Home may be of the same plan and elevation as the Subject home, but must be a different color package.
- 4 May be identical to Subject home.

EXHIBIT B:

**Product Design Principles**

***ELEVATIONS***

*When discussing elevation styles, use these examples as a reference.*

**ARTS AND CRAFTS (AC)**



Exhibit B, Page 1  
to Exhibit F



Exhibit B, Page 2  
to Exhibit F

**Product Design Principles**

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**ELEVATIONS**

*When discussing elevation styles, use these examples as a reference.*

**ENGLISH REVIVAL (ER)**

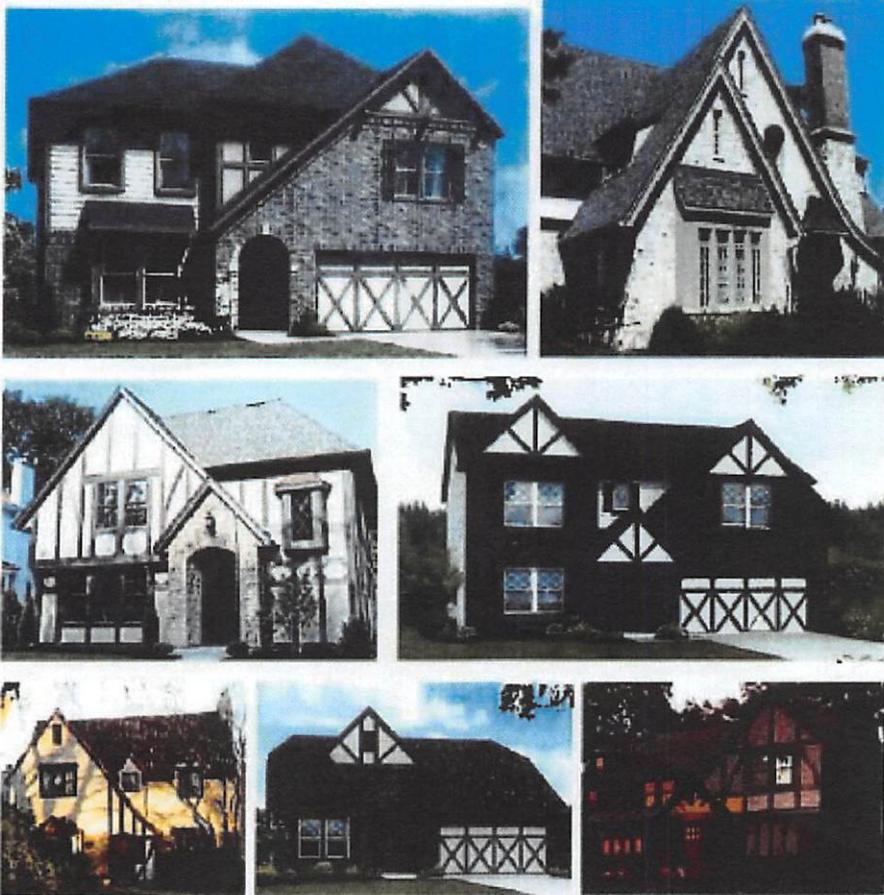


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to Exhibit F

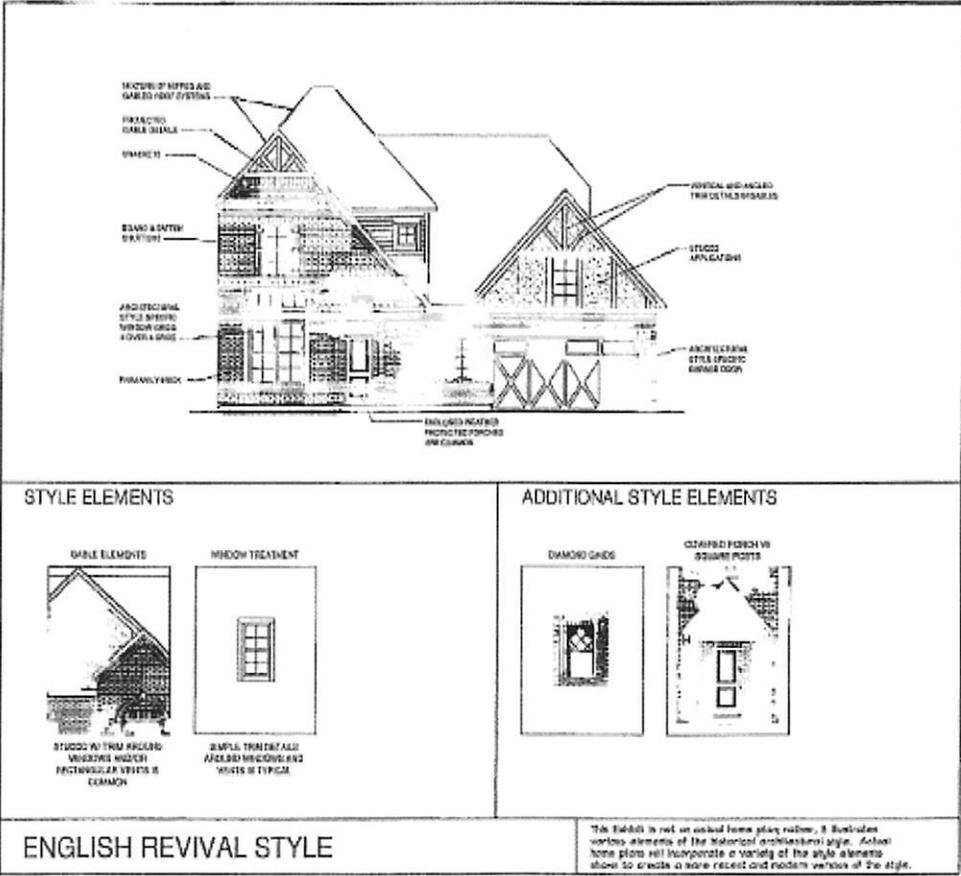


Exhibit B, Page 4 to Exhibit F

**Product Design Principles**

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**ELEVATIONS**

*When discussing elevation styles, use these examples as a reference.*

**FARMHOUSE (FH)**

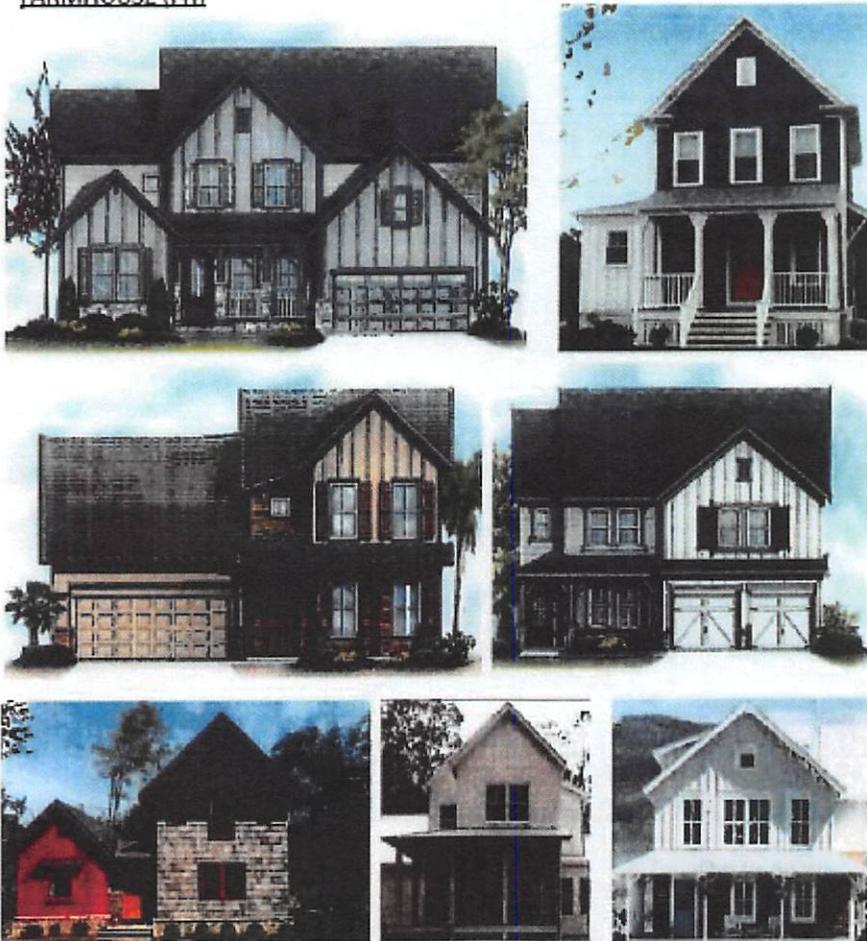


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to Exhibit F

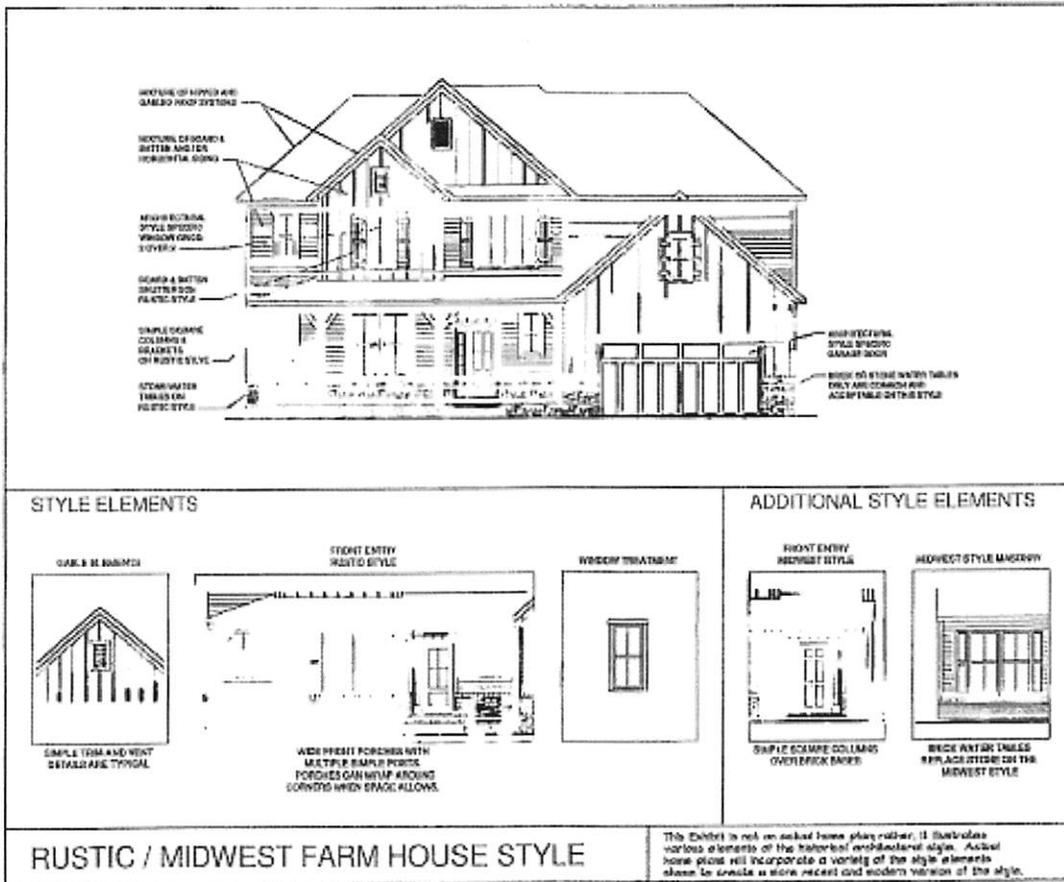


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to Exhibit F

**Product Design Principles**

**ELEVATIONS**

*When discussing elevation styles, use these examples as a reference.*

**FOUR SQUARE (FS)**

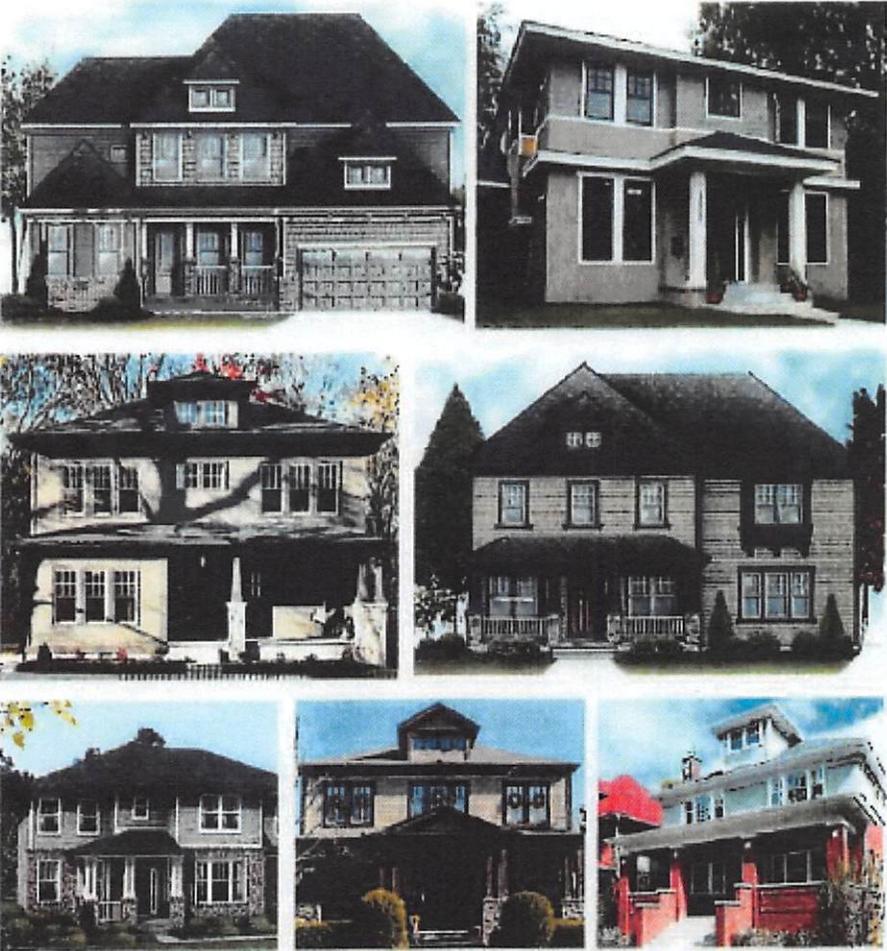


Exhibit B, Page 7  
to Exhibit F



Exhibit B, Page 8  
to Exhibit F

## Product Design Principles

### ELEVATIONS

*When discussing elevation styles, use these examples as a reference.*

#### FRENCH COUNTRY (FC)

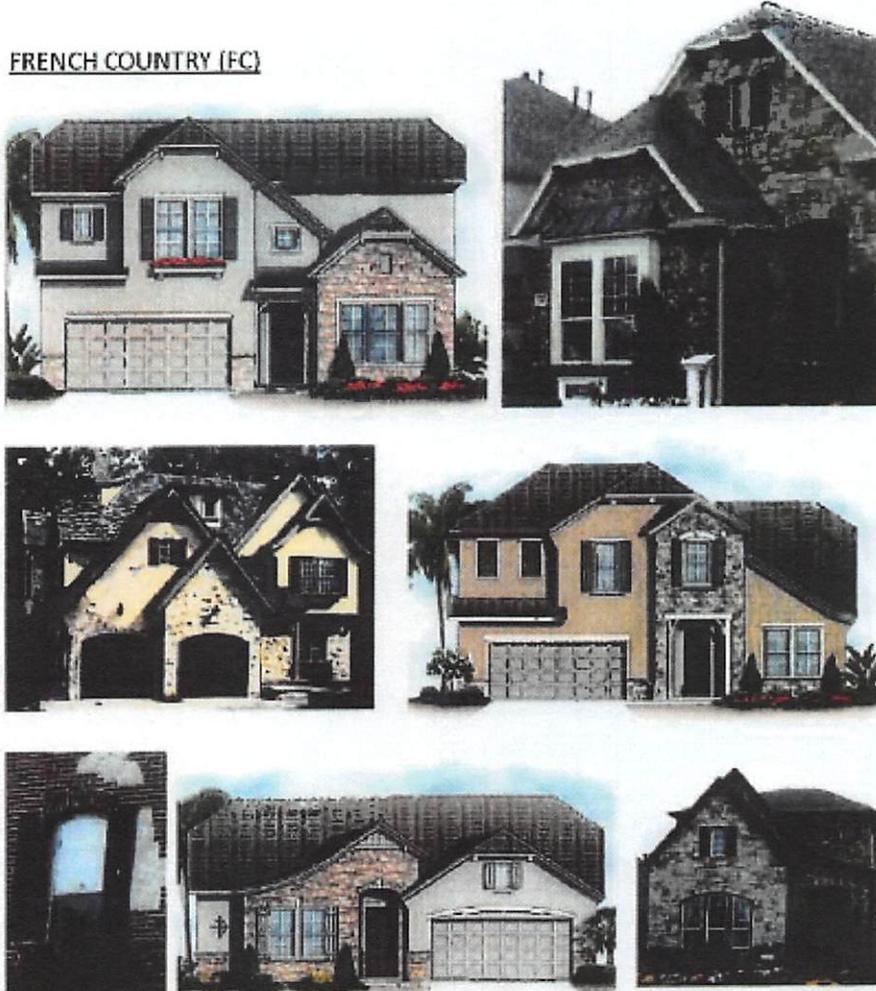


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to Exhibit F

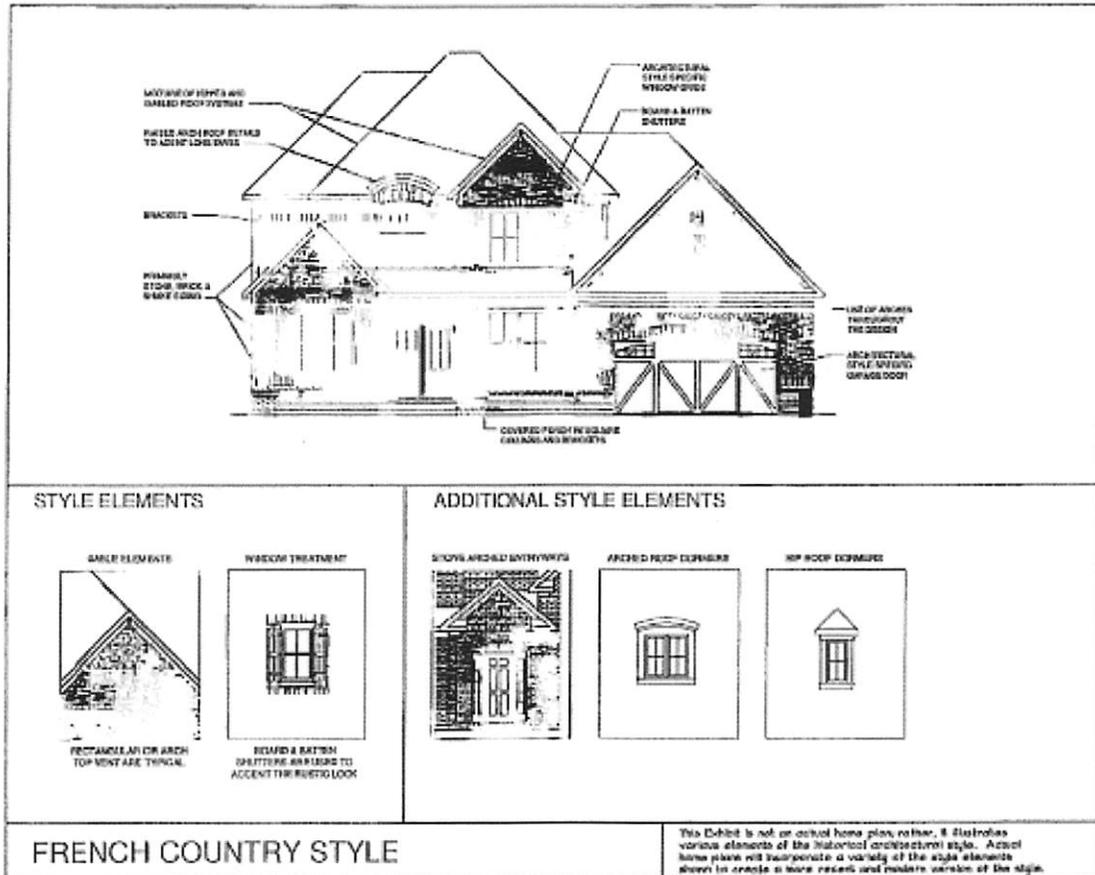


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to Exhibit F

## Product Design Principles

### **ELEVATIONS**

*When discussing elevation styles, use these examples as a reference.*

#### SHINGLE STYLE (SH)

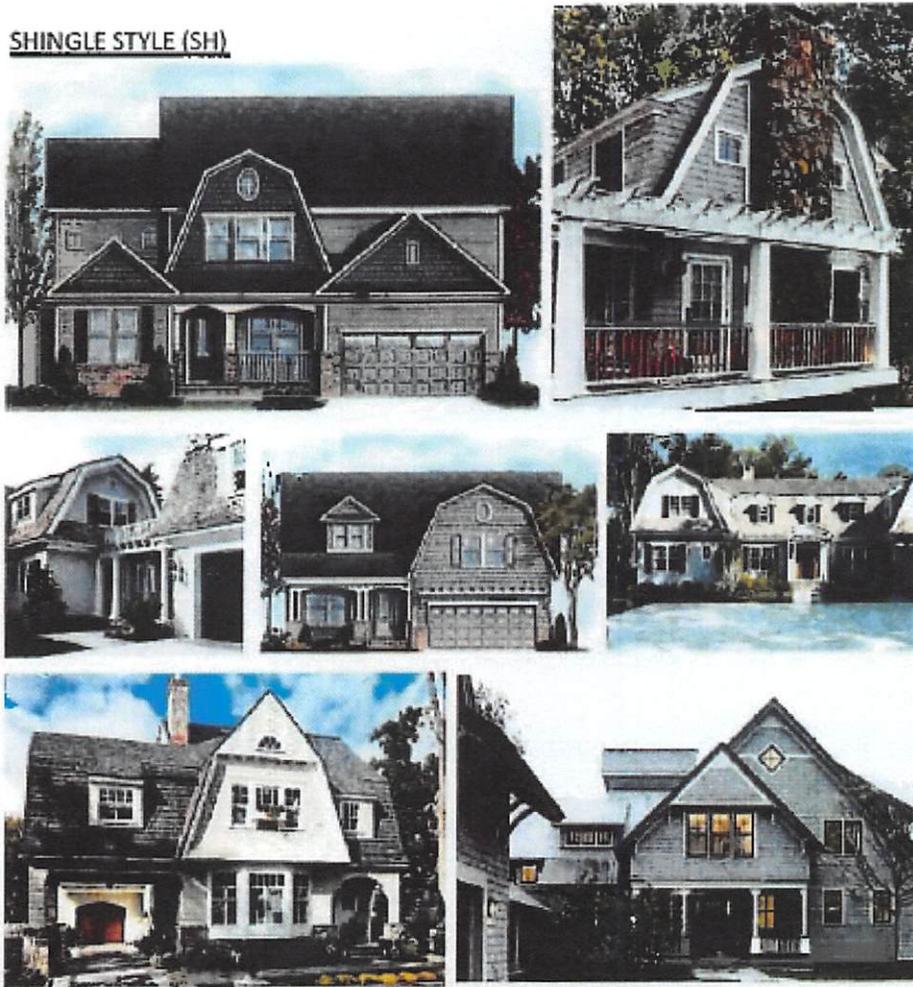


Exhibit B, Page 11  
to Exhibit F

**STYLE ELEMENTS**

**SHINGLE STYLE**

**ADDITIONAL STYLE ELEMENTS**

**GABLE ROOFING**  
CLIPPED GABLES BY CORNERS ARE COMMONLY SEEN ALONG WITH GABLE WINDOWS OR VENTS

**WOOD TREATMENT**  
TRIM WITH SHINGLE BRACKET TYPES TO THIS STYLE

**GABLE ROOF DORMER**

This Exhibit is not an actual house plan, rather it illustrates various elements of the historical architectural style. Actual house plans will incorporate a variety of the style elements shown to create a more varied and modern variation of the style.

Exhibit B, Page 12 to Exhibit F

## Product Design Principles

### ELEVATIONS

*When discussing elevation styles, use these examples as a reference.*

#### TRADITIONAL (TR)

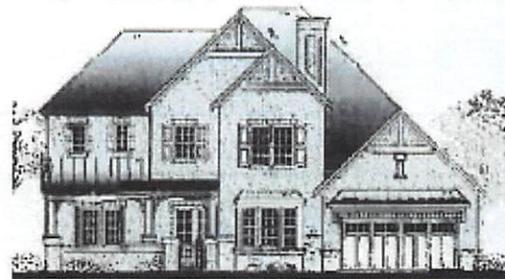
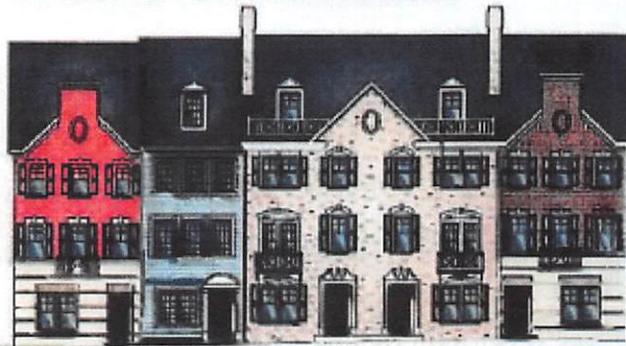


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to Exhibit F

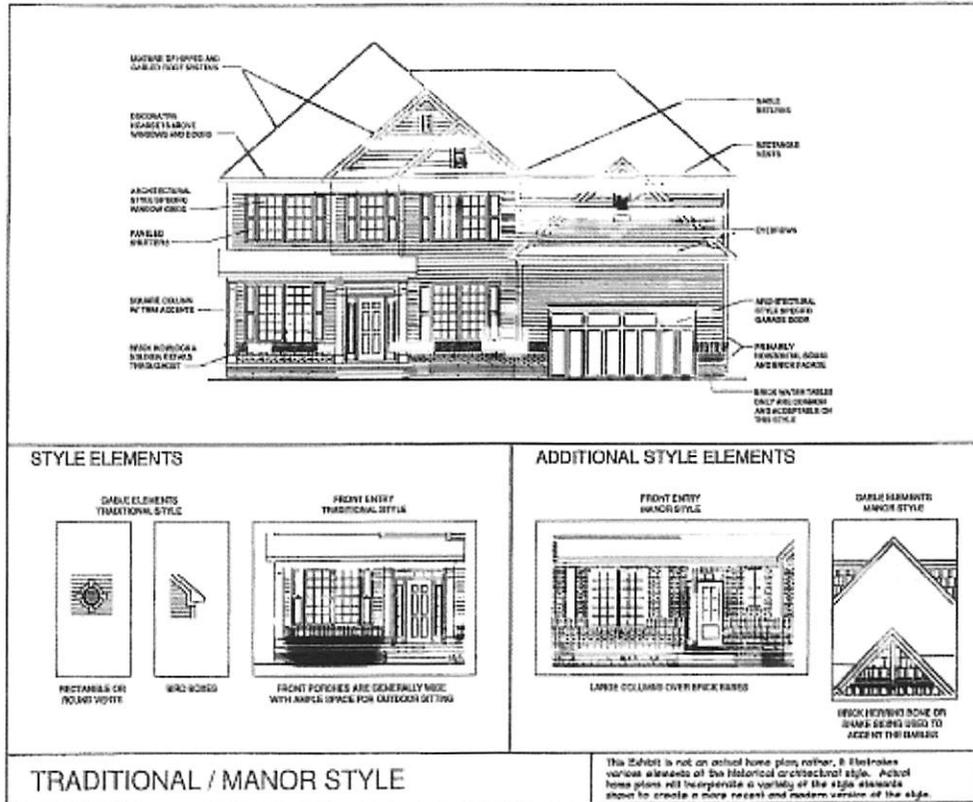


Exhibit B, Page 14  
to Exhibit F

## Product Design Principles

### ELEVATIONS

*When discussing elevation styles, use these examples as a reference.*

#### VICTORIAN (VI)

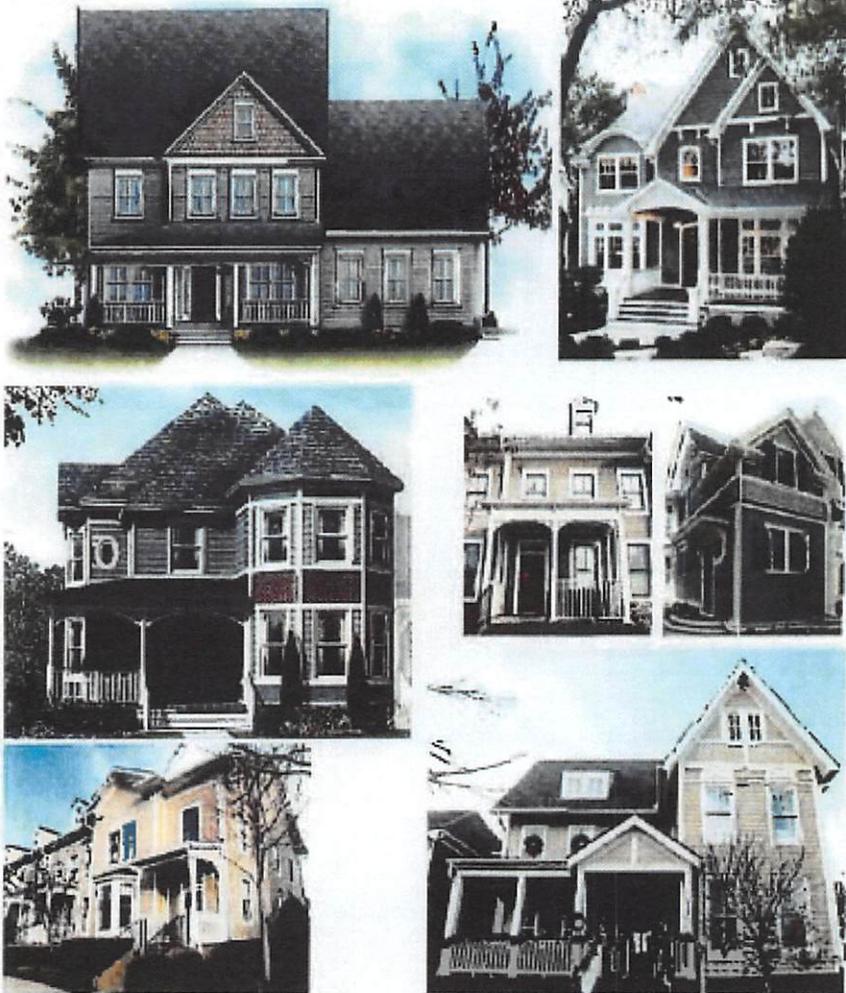


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to Exhibit F

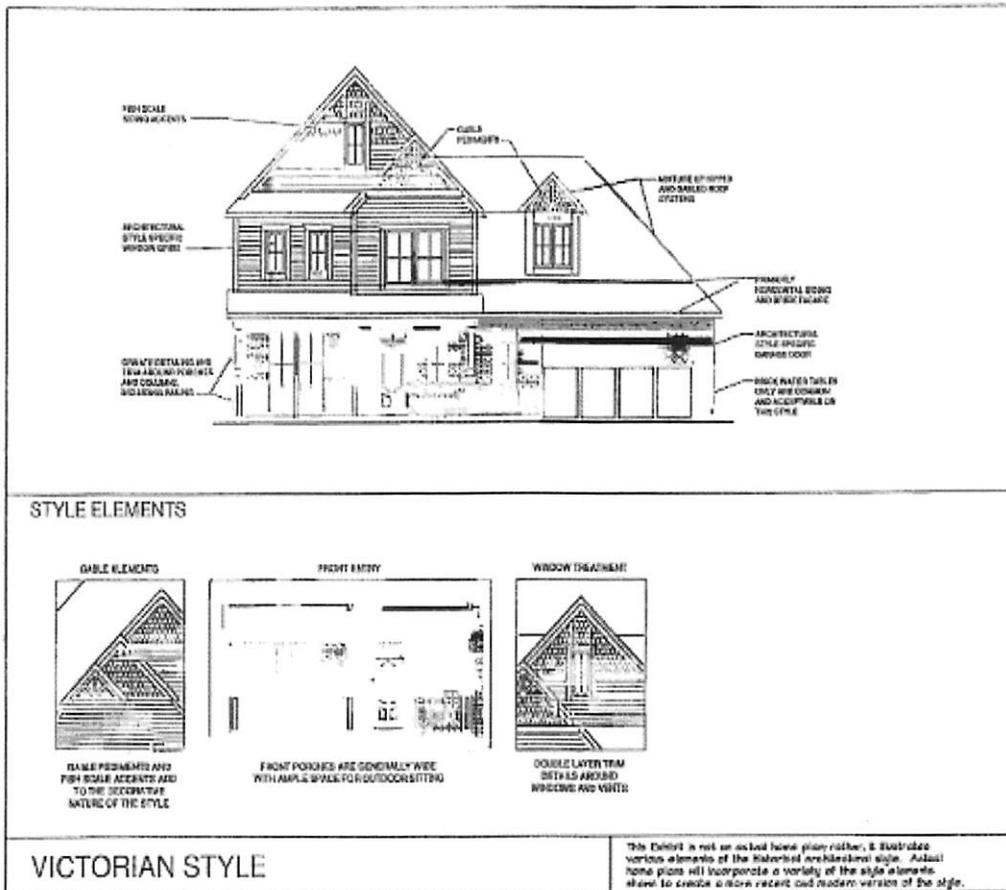


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to Exhibit F